

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**TONI MILLER, SUSAN ELLIOTT,
ARIEL KLEINSMITH
AND ANTWAN LEE**

Plaintiffs,

 \mathbf{y}_i

TEAM GO FIGURE, L.L.P., TEAM GO FIGURE, and SCOTT ESKRIDGE

Defendants

§ § § § §

CIVIL ACTION NO. 3:13-cv-1509
JURY

**APPENDIX TO PLAINTIFFS' BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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DATED this 14th day of March, 2014.

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By: _____/S/ James B. Moulton

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CERTIFICATE OF SERVICE

I certify one true and correct copy of the foregoing instrument was served on Defendants' lead counsel of record by electronic mail through the Court's EFCEM system on this 14th day of March, 2014.

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Exhibit “A”

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

TONI MILLER, SUSAN
 ELLIOT, ARIEL KLEINSMITH
 AND ANTWAN LEE,

Plaintiffs

v.

TEAM GO FIGURE, L.L.P.,
 TEAM GO FIGURE AND SCOTT
 ESKRIDGE,

Defendants

§
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 § CIVIL ACTION NO.
 § 3:13-cv-1509
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ORAL DEPOSITION OF
 SCOTT ANTHONY KENWORTHY
 Volume 1 of 1
 January 15, 2014

ORAL DEPOSITION OF SCOTT ANTHONY KENWORTHY,
 produced as a witness at the instance of the Defendants,
 and duly sworn, was taken in the above-styled and
 -numbered cause on January 15, 2014, from 3:55 PM to
 7:39 PM, before Gaylord A. Sturgess, CSR No. 744, in and
 for the State of Texas, reported by Stenographic method,
 at the offices of BRACKETT & ELLIS, PC, 100 Main Street,
 Fort Worth, Texas 76102, pursuant to the Federal Rules
 of Civil Procedure and the provisions stated on the
 record.

Job No. 18228.as

A P P E A R A N C E S

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ALSO PRESENT:

Toni Miller
Susan Elliott
Scott Eskridge

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P R O C E E D I N G S

THE REPORTER: Mr. Kenworthy, would you raise your right hand, please, and be sworn.

Do you solemnly swear, or affirm, the testimony you shall give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE REPORTER: Thank you.

SCOTT ANTHONY KENWORTHY,
having been first duly sworn, testified as follows:

EXAMINATION

BY MS. JACKSON:

Q. Mr. Kenworthy, would you state your full legal name for the record, please.

A. Scott Anthony Kenworthy.

Q. Mr. Kenworthy, my name is Claudine Jackson. And you and I have visited on the telephone to set up your deposition here today, correct?

A. Correct.

Q. Other than that, we have not talked substantively about this case or of the claims of Ms. Elliott, Ms. Miller, or Ms. Kleinsmith, correct?

A. No, we have not talked.

Q. Okay. Just so you understand, the purpose

1 Q. Okay. Fair enough.

2 A. So if I -- if we were in a situation where
3 we had to work to get some orders out, then those
4 people would know. But if they weren't part of those
5 people, then that wouldn't have been authorized
6 overtime.

7 Q. Okay.

8 A. So -- and I can't -- I wouldn't be able to
9 see hours until the final -- until the tally sheet
10 came up the following week.

11 Q. There were occasions in the production
12 department, or at least in the department you oversaw,
13 in which folks were required to work overtime and you
14 permitted them to work overtime, right?

15 A. Yes.

16 Q. Okay. Did you have any folks under you that
17 were exempt from overtime, that were salaried and had
18 a role that would make them exempt from overtime?

19 A. Yes.

20 Q. And who was that?

21 A. Josie Tayhada. Any of the designers. And I
22 believe April McDougald, when she first started, when
23 she -- when she was purchasing.

24 Q. And the folks that were salaried and not
25 hourly, were they required to track their time?

1 A. No.

2 Q. Did you as a manager track their time?

3 A. No.

4 Q. Would you be able to go --

5 A. Going back, Kristi -- the graphic artist,
6 too, Kristi Mraz.

7 Q. What about Barbara Dickens, did she report
8 to you?

9 A. Yes, yes. She was salaried, too.

10 Q. Okay. And you didn't track her hours, did
11 you?

12 A. No.

13 Q. And when did you typically arrive at the
14 Team Go Figure office or whatev- -- location or
15 whatever you want to call it?

16 A. Monday through Friday somewhere between 6:00
17 and 6:30.

18 Q. And when did you typically leave?

19 A. Monday through Friday typically -- again,
20 it's seasonal. If I left early, it would be 6:00
21 o'clock at night.

22 Q. Okay. When you say seasonal, what are you
23 talking about?

24 A. During the summer, production was heavier.
25 And in that -- in those cases it was rare that I would

1 fittings y'all did?

2 A. I don't recall.

3 Q. What about in 2011?

4 A. Don't recall.

5 Q. What about in 2010?

6 A. I don't recall.

7 Q. Are you able even to give an estimate?

8 A. Somewhere between 40 and 75.

9 Q. And you think that this information of the
10 number of fittings would be reflected on the Team Go
11 Figure order forms?

12 A. The number? The number can be off the team
13 orders. There were separate files for team orders.
14 And also from QuickBooks.

15 Q. But it's not going to necessarily indicate
16 how long the fitting lasted or who was necessarily
17 there, is that true?

18 MR. MOULTON: Objection, asked and
19 answered.

20 A. That's true.

21 Q. Okay. You talk about the order forms. Is
22 that something that's generated before the fitting?

23 A. Yes.

24 Q. Okay. And how is it that a director knows
25 what to put on the order form?

1 A. They don't. It's the individual team member
2 that's filling out the order form. We would -- we
3 would set up -- we'd bring sizers with us. We'd set
4 up sizers for each item on the order form. They
5 would -- they would try the sizers on, mark down what
6 size they needed and the quantity needed, and they'd
7 go on to the next station. And at the end of it, they
8 would turn in the order forms to whoever was at the
9 fitting.

10 Q. Then that's the process of a fitting?

11 A. Yes.

12 Q. Okay. What I'm talking about is: My
13 understanding in talking with Ms. Miller is when --
14 before y'all even get to the fitting, somebody has
15 decided what these girls are going to try on and what
16 they're going to buy. Is that true?

17 A. Yes.

18 Q. Okay. How does Team Go Figure know what to
19 put on the order form, what to bring sizers of for
20 these girls to try on and buy?

21 A. In conversation with a director, a director
22 will give Team Go Figure what -- the items that
23 they're looking to purchase from Team Go Figure.
24 Those would be placed on the team order -- and we're
25 just talking team orders, or fitting orders.

1 A. They were classified -- you're correct.
2 Team Go Figure would just call them salaried and never
3 differentiate them. But they're true -- I always
4 experienced differentiation.

5 Q. Yeah. But your experience was on if someone
6 is managing someone or not, correct?

7 A. Correct.

8 Q. And you don't know --

9 A. In actual management.

10 Q. Okay. And you don't know whether Scott in
11 his mind had another reason for classifying someone as
12 salaried and exempt from overtime other than them
13 being a manager. You don't know that, do you?

14 A. Do I know what was in his mind? Is that the
15 question?

16 Q. Do you know whether he was classifying them
17 as exempt for some other reason?

18 A. Yes.

19 Q. Okay.

20 A. History has shown -- 16 years of history
21 shows that it was to not pay them overtime.

22 Q. Well, that's what the exemption is. Just so
23 you understand the law, the exemption is you don't
24 have to pay them overtime. Okay? And my question to
25 you -- it sounds like to me that your knowledge and

1 A. Correct.

2 Q. Okay. And did you understand -- with
3 respect your salary at least, did you understand that
4 you got that salary even if you did put in extra
5 hours, that that was your salary?

6 A. As it turned out, yes.

7 Q. Well, and that's actually -- I mean, correct
8 me if I'm wrong, but you said you had twelve
9 conversations with Scott wherein you tried to
10 encourage him to put people as hourly so when they did
11 put in the extra hours, they'd get paid for it?

12 A. Right.

13 Q. Did I understand that right?

14 A. Yes.

15 Q. And so, you understood that anybody at Team
16 Go Figure who was salaried, that was the salary they
17 were getting even if they put in the extra hours,
18 right?

19 A. Yes.

20 Q. Okay. And did you ever hear Scott represent
21 to anybody at Team Go Figure who was salaried that if
22 you put in the extra hours, I'm gonna pay you some
23 overtime for those hours?

24 A. Yes.

25 Q. Who?

1 A. Not overtime. It was always -- I'm sorry.
2 Overtime, no. Extra pay, yes.

3 Q. Who?

4 A. The graphic artists, when they were working
5 on the catalog, the extra hours that they were
6 spending at home and at work, he indicated he would
7 give them some kind of stipend to account for their
8 hours.

9 He -- I am -- I was salaried exempt,
10 but he would represent that we would -- that I would
11 be at times eligible for bonus, for profits or work or
12 whatever. He represented that with previous office
13 managers.

14 It was typically -- I mean, with the
15 others it was, I'll take care of you if you put in the
16 hours. Again, with me, I was salaried exempt, so I
17 knew where I stood.

18 Q. But in terms of each pay period, did Scott
19 say you'll get -- I mean, did everybody understand you
20 get the salary?

21 A. For each pay period?

22 Q. Yes.

23 A. Yes.

24 Q. Okay. I understand that you looked at time
25 sheets and signed off on them, and then you turned

1 design, and I'm almost positive she had a degree. But
2 she had a lot of graphic experience along with Kristi,
3 same thing. I think they both had -- I think they had
4 their degrees in fashion design or fashion, something
5 like that; but they also had graphic education.

6 Q. Okay. And did you already tell me whether
7 or not Deirdre had worked in excess of 40 hours in a
8 given week?

9 A. Yes, she would have, especially during
10 catalogs.

11 Q. Okay. Now, was it ever the policy of Team
12 Go Figure to pay overtime wages based on an 80-hour
13 pay period rather than a 40-hour pay period?

14 A. Yes.

15 Q. Do you know when Team Go Figure had that
16 policy?

17 A. For 15 of the 16 years.

18 Q. So when did they stop paying overtime based
19 on that 80-hour period?

20 A. I think it was in the -- I think it was in
21 the -- shortly after Kathleen Craig and Tiersa and
22 Susan bookkeeping transfer duties.

23 Q. Do you recall Kathleen Craig?

24 A. Yes.

25 Q. Do you remember receiving her resignation?

1 And then she was also doing the artwork
2 for the vinyl cutting because we had -- when we set up
3 vinyl cutting, because prior to that we had always
4 farmed out and given to an outside contractor to do.
5 When she came on, she had a vinyl plotter that she
6 brought with her and the software to run it. So then
7 we -- she started running it, and then we trained
8 Kristi on how to do it.

9 So initially she was doing all the
10 vinyl cutting and the design. The designs and then
11 the vinyl cutting for the heat transfers in addition
12 to calling on customers.

13 Q. When Toni was hired, was there actually a
14 sales team to manage?

15 A. I don't recall for certain. I think that
16 Brooke was down in Houston. I don't remember -- I
17 don't remember who else was around.

18 Q. Was there ever any times when there were
19 less than two outside salespersons?

20 A. Yes.

21 Q. Do you know how often that occurred?

22 A. Annually.

23 Q. So basically every year there was a period
24 of time when there were less than two outside
25 salespersons, correct?

1 A. In almost every year, yes. And I'm going
2 back 16 years. Not 2010 to 2013. 2010 to 2'13, I
3 don't -- I don't re- -- Antwan might have lasted
4 through the winter, but otherwise I don't remember
5 anyone else making it -- and I don't even think he
6 made it a whole seas- -- I don't think he made it a
7 whole year.

8 Q. Did Toni have the authority to hire and fire
9 employees?

10 A. Did who?

11 Q. Toni.

12 MS. JACKSON: Calls for speculation.

13 A. Not directly, no.

14 Q. And what do you mean by that?

15 A. It would be -- it would be the salespeople,
16 it would be an -- it would be an interview that she
17 did, an interview that Scott did. And then Scott
18 would do the actual -- Scott would do the actual offer
19 of employment.

20 When it came to termination, there was
21 some that Scott terminated. There were some that
22 Scott told Toni to terminate. So there were some that
23 she would terminate their employment.

24 Q. And did you ever hear Scott Eskridge say
25 anything to the effect that Toni had no actual or true

1 was done, so you will need -- you know, there's work
2 that was done, so that will be a negotiation as far as
3 any kind of return of money and that -- and that it
4 was Scott that in fact cancelled, that it wasn't a
5 case of that company -- the company really didn't have
6 an opportunity to -- a second opportunity to come in
7 and fix the problem.

8 I don't know whether they would, but
9 it's -- from then on, it was a -- it was brought up in
10 conversations that -- that Toni still owed him \$6,000,
11 and that I should just take it out of her check.

12 And I had said at the time, those are
13 two separate entities. You can't -- you can't look at
14 that as the same thing. They weren't one and the
15 same. Because that was a separate company run by, I
16 think it was OCR, LLC, or ORC, LLC, something like
17 that.

18 And that's where my knowledge of the
19 whole thing and conversation with Scott ended. I
20 didn't know after that if he had or hadn't taken it
21 out of her check.

22 Q. Okay. Now, you talked about -- strike that.

23 Who was Ariel Kleinsmith's immediate
24 supervisor?

25 A. April McDougald.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN
ELLIOT, ARIEL KLEINSMITH
AND ANTWAN LEE,

Plaintiffs

v.

TEAM GO FIGURE, L.L.P.,
TEAM GO FIGURE AND SCOTT
ESKRIDGE,

Defendants

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§ CIVIL ACTION NO.
§ 3:13-cv-1509
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REPORTER'S CERTIFICATION
DEPOSITION OF SCOTT ANTHONY KENWORTHY
Volume 1 of 1
January 15, 2014

STATE OF TEXAS)

I, Gaylord A. Sturgess, a Certified
Shorthand Reporter in and for the State of Texas, do
hereby certify that, pursuant to the agreement
hereinbefore set forth, there came before me SCOTT
ANTHONY KENWORTHY, who was by me duly sworn to testify
the truth, the whole truth, and nothing but the truth
of said witness's knowledge concerning the matters in
controversy in this cause; and the said witness was
thereupon carefully examined upon said oath, and said

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1 examination reduced to writing under my supervision;
2 that the deposition is a true record of the testimony
3 given by said witness, same to be sworn to and
4 subscribed by said witness before any notary public,
5 pursuant to the agreement of the parties.

6 I further certify that I am neither
7 counsel for nor related to any party in this cause and
8 am not financially interested in its outcome.

9 I further certify that the taxable cost
10 for preparation of the Original deposition transcript
11 and Original exhibits, if any, is \$_____ and
12 was/will be paid by the Defendants.

13 GIVEN UNDER MY HAND AND SEAL of office
14 on January 21, 2014.



17 GAYLORD A. STURGES, Texas CSR #44
18 Expiration Date: 12/31/14
19 Merit Court Reporters, LLC
20 307 W. 7th Street
21 Suite 1350 Commerce Building
22 Fort Worth, Texas 76102
23 817-336-3042
24 Job No. 18228.as
25

Exhibit “B”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN ELLIOT,)
ARIEL KLEINSMITH AND)
ANTWAN LEE,)
)
Plaintiffs,) CIVIL ACTION
)
VS.) NO.: 3:13-cv-1509
)
TEAM GO FIGURE, L.L.P.,)
TEAM GO FIGURE AND SCOTT)
ESKRIDGE,)
)
Defendants.)

ORAL DEPOSITION OF
ARIEL KLEINSMITH
JANUARY 7, 2014

ORAL DEPOSITION OF ARIEL KLEINSMITH, produced as a
witness at the instance of the Defendants, and duly
sworn, was taken in the above-styled and numbered cause
on January 7, 2014, from 3:06 p.m. to 6:36 p.m., before
Julie G. Davault, CSR in and for the State of Texas,
reported by machine shorthand, at the Law Offices of
Brackett & Ellis, P.C., 100 Main Street, Fort Worth,
Texas, pursuant to the Federal Rules of Civil Procedure
and the provisions stated on the record or attached
hereto.

Job No. 18227

ORIGINAL

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ALSO PRESENT: Susan Elliott and Scott Eskridge

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CERTIFIED QUESTIONS

NO.

PAGE/LINE

None

1 THE REPORTER: Agreements?

2 MS. JACKSON: According to the Rules?

3 MR. MOULTON: Yeah.

4 ARIEL KLEINSMITH,
5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MS. JACKSON:

8 Q. Good afternoon, Ms. Kleinsmith. My name is
9 Claudine Jackson. I represent Mr. Eskridge and Team Go
10 Figure in this lawsuit. Do you understand who I am and
11 who I represent?

12 A. Yes.

13 Q. And before you and I meeting just a couple of
14 minutes ago, have you and I ever had an opportunity to
15 talk before?

16 A. No.

17 Q. I understand -- or you understand that you have
18 sued Team Go Figure and Mr. Eskridge in Federal Court
19 for alleged violations of the FLSA; do you understand
20 that?

21 A. Yes.

22 Q. Okay. Have you ever been involved in a lawsuit
23 before?

24 A. No.

25 Q. Have you ever given a deposition before?

1 A. She supervised anybody who did any sales in
2 Team Go Figure.

3 Q. Okay. And who were doing sales in Team Go
4 Figure that Toni Miller supervised, at least when you
5 were there?

6 A. Majority, it was myself, Antwan, Candice, the
7 San Antonio reps, there was a Austin rep. And then I
8 was -- myself and Candice were inside sales reps, so we
9 had to work inside the office and make sales calls
10 inside the office and then make appointments for outside
11 the office, which we would leave the office for an hour
12 or two hours, depending upon -- to show apparel and
13 items.

14 Q. And was your primary job function to make
15 sales?

16 A. Yes, but no. I would say that our objective
17 was to make sales, but I also was to provide customer
18 service. And I also was to provide marketing. So
19 anytime that we did any events, like we did TMEA, I
20 would help with those events and coordinate what the
21 booth would look like with Toni. And I also helped with
22 the catalog and helping Toni design some of the catalog
23 and pictures and things like that, making sure that
24 equipment was held properly for color guard and things
25 like that because that's where my expertise was held.

1 became irrelevant because I was paid salary, is what I
2 was told.

3 Q. When did you punch in and out sometimes?

4 A. I mean, maybe the first week.

5 Q. So it's your testimony that you punched in and
6 out on a time clock the first week and then after that
7 you were told --

8 A. Sometimes --

9 Q. One second, let me finish my question. After
10 that you were told not to punch in and out and you never
11 punched in and out again; is that your testimony?

12 A. It was mostly that I would just write on the
13 time card that I worked 40 hours in a week, even if I
14 worked over that.

15 Q. Kirsten Kosack, is that another salesperson
16 that Toni Miller supervised?

17 A. Yeah, but they were outside.

18 Q. Outside sales?

19 A. Yeah.

20 Q. Kristie in graphics?

21 A. Yes.

22 Q. Did Toni Miller supervise her?

23 A. Yes, but no. I mean, she helped with catalog
24 input, but, if anything, she was supervised mostly by
25 Scott --

1 Q. Okay.

2 A. -- and April somewhat, but mostly Scott.

3 Q. Okay. And then what about Meredith, do you
4 remember Meredith?

5 A. Uh-huh.

6 Q. Who supervised Meredith?

7 A. April.

8 Q. Okay.

9 A. Because April did all the in office. So
10 anybody -- like she supervised over myself and Antwan
11 and everybody else, but she mostly took care of all the
12 office stuff when it came to paperwork and how we
13 formatted everything and customer service.

14 Q. And who else besides -- who else was April
15 supervising for office aspects, besides Meredith and
16 you, yourself, and Antwan?

17 A. Meredith, Heather, Candice and -- What is her
18 name? Tabitha. And then Tabitha had joint -- she was
19 partially Toni's sales assistant, but as well as being
20 an office, so she was supervised by April as well.

21 Q. Are you able to tell the jury how frequently
22 you left the office for a sales call?

23 A. I would leave a sales call depending upon
24 commuting time, so it could be anywhere between 15 to 45
25 minutes to get to that destination and then I would meet

1 here under oath how many times per week while you were
2 at Team Go Figure you went to a school and had a fitting
3 after 4:00?

4 A. Are we -- Okay. Because before you said
5 showing apparel and now you're saying fittings, so those
6 are two very different items.

7 Q. Okay.

8 A. So for a fitting there was probably three, four
9 times a week and I would be well after 4:00. Usually
10 fittings were always afterwards, they were not during
11 school hours. They were always after because you have
12 to get all the whole team involved to show all these
13 members and to make sure it fits everybody properly.

14 Q. Okay. So just so I understand and it's clear
15 for the record, when you visit a school you might visit
16 them for a showing and the purpose of the showing is to
17 make a sale?

18 A. Yeah.

19 Q. You --

20 A. And that would be about 30 minutes long.

21 Q. Okay.

22 A. Then I would head back to the office, write up
23 the whole -- what they wanted to order and make order
24 forms, that way when the fitting did happen they could
25 decide, the parents, if they want it to be -- you know,

1 Q. Okay. So your testimony is that your meetings
2 at Boswell and Southwest High School resulted in sales
3 for your territory and you made out order forms?

4 A. Yes.

5 Q. That day?

6 A. Yes.

7 Q. Okay.

8 A. Usually it took me a little bit longer than --
9 to finish. I probably finished one of the order forms,
10 but not the other one.

11 Q. And when would you have finished?

12 A. Probably the next day.

13 Q. What time would you have stopped working on
14 Tuesday the 21st of February after those two meetings?

15 A. I don't know. 6:00.

16 Q. Okay. And then you would have gone home and
17 done whatever?

18 A. Yeah.

19 Q. You had another job while you were working with
20 Team Go Figure?

21 A. Not really, but, yes. I would do promotional
22 -- I did promotional modeling. And I would do like a
23 couple of hours on a Saturday or Sunday, but not enough
24 -- Like I showed my -- I gave you my 1099s for those tax
25 forms, but I didn't work that often.

1 A. I don't recall because I don't know if we had a
2 fitting that night or not.

3 Q. What about February the 22nd? It says that
4 your first meeting was at 10:30 in Colleyville and your
5 second would have been at Sanger at 4:00.

6 A. Right.

7 Q. Do you recall specifically on February the 22nd
8 going back to Team Go Figure after your Sanger meeting
9 at 4:00?

10 A. I did not go back to Team Go Figure after my
11 Sanger meeting.

12 Q. You just drove home?

13 A. Yeah.

14 Q. Okay.

15 A. Because Team Go Figure would have been closed
16 by the time I got back from my Sanger meeting.

17 Q. So did you have a key to Team Go Figure?

18 A. No.

19 Q. What time did Team Go Figure close?

20 A. 6:00, but sometimes we'd stay late if we had --
21 we knew a customer was coming by.

22 Q. So if you were out at a meeting and by the time
23 you made it back to Garland it was going to be 6:00,
24 you'd just go home for the night?

25 A. Right.

1 Q. And did you -- and then you'd go in the next
2 morning to complete your order form --

3 A. Right.

4 Q. -- that sort of thing?

5 A. Yes.

6 Q. Okay. And the order forms were something you
7 needed to complete in order to get the sale that you had
8 just made, right?

9 A. Yes.

10 Q. Because if you don't complete the order form,
11 you lose the sale, right?

12 A. Yes.

13 Q. Okay. And so then on Friday the 23rd of
14 February, you had a meeting at 3:30 at Creekview High
15 School scheduled?

16 A. Yes.

17 Q. And that was a Friday afternoon, so do you
18 recall if you went back to Team Go Figure that day?

19 A. I did go back, yeah.

20 Q. And what time would you have made it back to
21 Team Go Figure?

22 A. Probably 5:00 because it was only a 30 minute
23 drive from Carrollton back to Garland.

24 Q. Well, probably or do you remember?

25 A. Yes, I remember going back.

1 Q. Okay. And then you would have done what?

2 A. At that point, because at Creekview -- it used
3 to be Toni's territory. I remember talking to her about
4 Creekview and what all they ordered and talking to her
5 about the director and then he made up the order form
6 that day.

7 Q. Okay. And what time did you leave work on
8 Friday, February 23?

9 A. 6:00.

10 Q. And what time did you go in to work on Friday,
11 February 23?

12 A. 8:30, 9:00.

13 Q. Some mornings you go in at 8:30, some mornings
14 you go in at 9:00?

15 A. Yes, depending upon what all I needed to get
16 done, if I needed to write up a whole big order form or
17 not or if there's things I need to prepare before
18 meeting with a director, making sure I had all that
19 ready for them.

20 Q. And when you would get to work at 8:30 or 9:00
21 in the morning, was Toni there or was she not really a
22 morning person?

23 A. She usually was there.

24 Q. Already working?

25 A. She was there at 9:00 for sure, always.

1 Q. Okay. And then when you would leave at 5:30 or
2 6:00 --

3 A. It was usually 6:00.

4 Q. Okay.

5 A. And then if -- it was sometimes later if it was
6 a fitting.

7 Q. Okay. When would -- when you would leave at
8 6:00 would typically most of the office leave around
9 that time?

10 A. Yes.

11 Q. Okay. Who would stay?

12 A. Sometimes Toni would -- It just depends if --
13 If it was in February we were trying to finish up the
14 last touches of color guard catalog, so Kristie would
15 sometimes stay late doing graphic design. Toni would
16 stay late helping with catalog design as well. And Ken
17 was always there really late, too.

18 Q. And what about Ms. Elliott?

19 A. Ms. Elliott as well, if there's a -- she would
20 help out with the catalog, too, as well as any kind of
21 bookkeeping that was needed left. And she was also
22 there for a lot of the fittings if they were late.

23 Q. Can you -- Are you going to be able to come to
24 trial and tell the jury the hours that Ms. Elliott
25 worked?

1 A. I don't know when trial is, but --

2 Q. Well, whenever we go to trial in this case, my
3 question is, do you have knowledge, were you watching
4 when Ms. Elliott was coming and going every day that
5 you're going to be able to sit on the stand in the
6 courtroom and tell the jury what hours she worked?

7 A. I mean, I was in and out as well as everybody
8 else, so keeping track of everybody in that office I
9 couldn't do myself.

10 Q. Okay. And you can't say when Toni was working
11 either, can you?

12 A. I mean, I could, but Toni was out a lot, you
13 know, doing sales, doing her job.

14 Q. And you were out a lot doing sales as well,
15 right?

16 A. I was like 50-50.

17 Q. Okay. I'll represent to you that the work week
18 for February the 27th of 2012, it began on Monday,
19 February the 27th, and would have ended on Friday, March
20 the 2nd. Okay? That's the work week I'm talking about.
21 All right? According to Exhibit 1, you made sales,
22 outside sales, at least from what you've bracketed on --
23 the only outside sale you made, at least that's on
24 Exhibit 1, that's reflected as a physical sale, is the
25 one that occurred on March the 1st at Azle High School

1 and then you went -- it says, "Ordered with Toni on
2 March the 2nd." Do you see that?

3 A. Uh-huh. Yeah, Toni went with me to Azle High
4 School and J.J. Pearce.

5 Q. Okay. So my question to you is, the week of
6 February the 27th, until March the 2nd, other than the
7 outside meeting at Azle and J.J. Pearce, what other
8 outside meetings, fittings, deliveries, did you have
9 that week?

10 A. I don't know. I mean, I went -- It was in
11 March. We were doing a lot fittings. I mean, there was
12 a fitting every day of March, from March till April. We
13 had consistently fittings all the time. And I would be
14 going to three or four of them a week and staying --

15 Q. Okay. Well, that wasn't my question to you.
16 My question was, from Monday, February the 27th, until
17 Friday, March the 2nd, can you tell the jury, other than
18 your outside visit to J.J. Pearce and your outside visit
19 to Azle High School, what other outside appointments,
20 meetings, deliveries, whatever, outside of the office,
21 you would have had?

22 A. I mean, I had fittings that week, but I don't
23 recall where and what -- I don't -- I don't know.

24 Q. What time were the fittings?

25 A. Fittings were always late. They were always

1 after 5:00. And they would last anywhere between two
2 and four hours, depending on how big the team was.

3 Q. And what fittings did you go to that week?

4 A. I don't know.

5 Q. How many fittings did you go to that week?

6 A. At least two or three.

7 Q. How do you know that?

8 A. I mean, I remember going to fittings that week,
9 but I don't know what days. I don't -- I don't know.

10 Q. What time did you come back from these two to
11 three fittings you may have had the week of
12 February 27th --

13 A. After 8:00 or 9:00.

14 Q. And you can't remember where you went?

15 A. Some of them, like if I went -- like if it was
16 Azle High School, I know I went to their fitting. And
17 that one is an hour away from Garland, so that one was
18 really far away. And they have a team of 30, so I was
19 at least there for three hours. I mean, I went to some
20 of the Plano schools with Toni. Went to a lot of
21 different fittings.

22 Q. Was Azle High School a school that was in your
23 territory?

24 A. Yes.

25 Q. And when you went to that fitting you had an

1 opportunity to meet face-to-face with the director?

2 A. Yes.

3 Q. And is one of the purposes of a fitting so that
4 the girls and the parents are happy with the product, so
5 that they'll be a repeat customer the next year?

6 A. I mean, that would be more of the delivery that
7 -- because they would actually see the product. The
8 fitting was to make sure they fit into the uniforms that
9 they're about to receive.

10 Q. And but you understood as a salesperson the
11 importance of putting on a good image and talking up the
12 product as you're fitting girls into these costumes,
13 right?

14 A. Right. But we would go with two other people.
15 I mean, we never went to a fitting alone. It's very
16 rare.

17 Q. And what about the week of Marth the 6th
18 through 10th, can you recall what specific fittings you
19 went to that week?

20 A. No, I don't -- I don't know.

21 Q. Okay. What about the week of --

22 A. I'm not going to remember where these fittings
23 are, each time you're going to ask me a week. I just
24 don't remember. It's almost two years ago.

25 Q. Okay. I understand that. But you understand

1 that you brought this lawsuit against Team Go Figure, do
2 you understand that?

3 A. Yes.

4 Q. Okay. And what I'm trying to figure out is,
5 are you going to get in front of the jury and say, "I
6 went to these fittings at these schools, these weeks out
7 of the -- during my employment," and, if so, I want to
8 know that. Okay? So can you recall any fittings that
9 you went to after hours, after 6:00 in the evening, that
10 would have required you to work after 6:00 in the
11 evening during your employment with Team Go Figure?

12 A. Yeah, there's been -- there was a lot of them.
13 I went to so many of them. I mean --

14 Q. Okay. And what schools? We talked about Azle.

15 A. Yeah.

16 Q. We talked about Plano.

17 A. Plano; Plano, Senior; Plano East; Royse City.

18 I went to Garland, Garland South and -- There were so
19 many of them. Went to all the Mansfield schools, South
20 (sic), Legacy, Colleyville, Grapevine, Trinity, those
21 were -- Decatur. There's a lot of different fittings I
22 went to afterwards -- after hours.

23 Q. Were any of the schools that you just named not
24 part of your sales territory?

25 A. All the Plano schools. Any of the -- I went to

1 all of -- mostly Toni's, all of her fittings that she
2 had scheduled schools with. Some of the Dallas schools
3 were Antwan's and mine and I went to those.

4 Q. It's your testimony that you actually attended
5 a fitting in Grapevine?

6 A. Yes.

7 Q. Colleyville?

8 A. Yes.

9 Q. Garland?

10 A. Yes.

11 Q. And South Garland?

12 A. Uh-huh.

13 Q. You recall the director's names at those
14 schools?

15 A. No.

16 Q. Did -- When -- when you went to a fitting in
17 your sales territory, did other sales folks come and
18 help you with your fitting?

19 A. Yes.

20 Q. And then in turn when you went -- when they had
21 a fitting in their sales territory, you went and helped
22 them in their sales territory with their fitting, right?

23 A. Yes.

24 Q. And fittings are outside of the office?

25 A. Yes.

1 Q. Physically going out of the office to --

2 A. Yeah.

3 Q. -- the school?

4 A. But sometimes, like, you would have Meredith
5 come with us, Susan would come with us to fittings and
6 they weren't sales people.

7 MS. JACKSON: Objection, nonresponsive.

8 Q. (BY MS. JACKSON) My question to you is,
9 fitting -- a fitting is physically outside the office at
10 the school, correct?

11 A. Yes.

12 Q. And that was part --

13 A. Unless, sometimes, the team would come to the
14 office and we would fit them in the office. There was a
15 couple times we did that.

16 Q. During your entire employment with Team Go
17 Figure, you remember two occasions in which a team came,
18 actually, to Team Go Figure and fitted inside the
19 office?

20 A. Yes.

21 Q. Okay. But that was unusual, correct?

22 A. Yes.

23 Q. Okay. And you understood that part of your
24 job, your responsibility, was doing these outside
25 fittings?

1 4th?

2 A. I mean -- how much I worked then or --

3 Q. Do you know -- You just said you do not know
4 many how -- if you worked over 40 hours the week of
5 April the 23rd through 27th because you took the day of
6 the 27th off of work --

7 MR. MOULTON: Objection, misstates her
8 testimony.

9 THE WITNESS: More than likely I worked --.

10 Q. (BY MS. JACKSON) My question to you was, do
11 you recall specifically how many hours you worked
12 beginning Monday, April the 30th, until Friday, May the
13 4th?

14 A. I always worked over -- I mean, like, we would
15 stay so late for those fittings, like 8:00 to 10:00 on a
16 regular basis and it would be twice a week, if not
17 three, four times a week depending -- and that was our
18 busy season during March, so I well worked over 40 hours
19 that week.

20 Q. Okay. I wasn't talking about March. Okay?
21 I'm talking about Monday, April the 30th until Friday,
22 May the 4th, that's a one-week period of time.

23 A. I don't recall what I have.

24 Q. Do you recall how many hours you worked that
25 week?

1 A. I feel like off -- May 1st -- what --

2 THE REPORTER: I've got to hear and
3 understand you.

4 THE WITNESS: Sorry. I'm trying to see
5 when the letter that I resigned because --

6 Q. (BY MS. JACKSON) Okay. Let me --

7 A. I don't know -- I left like the first week of
8 May.

9 Q. You can't -- sitting here right now you can't
10 recall how many hours you worked that week?

11 A. No. I mean, if it's the last week or the first
12 week of May, last week of April -- I don't know.

13 (Exhibit 7 marked.)

14 Q. (BY MS. JACKSON) Let me hand you what I'm
15 marking as Exhibit 7 and ask if you would tell the jury
16 what this document is?

17 A. That was when I quit.

18 Q. Pardon?

19 A. That was when I quit Team Go Figure. This is
20 my -- that was my resignation letter.

21 Q. And just so the jury understands, you showed up
22 on Friday, May the 18th, in the morning, and turned in
23 this resignation letter, correct?

24 A. Yep.

25 Q. And you gave no advance notice, correct?

1 A. No.

2 Q. And the day before, it's my understanding, you
3 drove up to Oklahoma --

4 A. Yes.

5 Q. -- apparently for a meeting, got lost and never
6 went to any of the meetings, correct?

7 A. Correct.

8 Q. And you represented to Team Go Figure, not that
9 you were just going to one meeting in Oklahoma, but that
10 you were going to multiple meetings --

11 A. Right.

12 Q. -- in Oklahoma -- just -- Is that correct?

13 A. Correct.

14 Q. And you never made it to any of those meetings,
15 did you?

16 A. Correct, because I was lost.

17 Q. And so just for purposes of putting this into a
18 calendar week, the week of May the -- has May the 18th,
19 began on May the 14th of 2012 --

20 A. Uh-huh.

21 Q. -- to May the 18th of 2012. Okay? And we know
22 you didn't work that Friday because you quit that
23 morning, right?

24 A. Right.

25 Q. So how many hours did you work from May the

1 14th, Monday to Thursday, May the 17th?

2 A. May the 14th, May the 17th? I mean --

3 Q. If you know?

4 A. I don't know.

5 Q. How many hours did you work the week before
6 from May the 7th, Monday, May the 7th, until Monday --
7 pardon me, Friday, May the 11th?

8 A. I want to say close to 50 because that's when
9 we had -- we had like three fittings that week, if not
10 four fittings that I attended.

11 Q. What three fittings or four fittings do you
12 remember attending the week of May the 14th through the
13 18th?

14 A. Well, you mean the week prior. You just mixed
15 up the dates.

16 Q. I'm sorry. What three to four fittings do you
17 recall attending the week of May the 7th through May the
18 11th?

19 A. I don't recall, but I know I attended the
20 majority of those fittings.

21 Q. And to attend three to four fittings, you're
22 saying you worked 50 hours that week?

23 A. Yes.

24 Q. So you worked ten hours over 40 hours?

25 A. Yes. At least.

1 Q. And now let's go back because remember
2 initially what started me asking these questions was I
3 was asking about the week that began on April the 30th
4 through -- through Friday, May the 4th. Okay?

5 A. Right.

6 Q. You had taken off the Friday before to move.
7 Okay?

8 A. Uh-huh.

9 Q. How many hours did you work the week of April
10 the 30th to -- to Friday, May the 4th? Recall you
11 thought that was the week you quit, but we've now
12 clarified that.

13 A. Yeah. Right.

14 Q. So are you able to tell this jury, under oath,
15 how many hours you worked the week of Monday, May (sic)
16 the 30th until Friday, May the 4th?

17 A. Over 40 hours, easily.

18 Q. Well, how many hours? That's what I need to
19 know, if you know.

20 A. I know I did like two or three fittings that
21 week, so --

22 Q. Well, if three to four fittings meant you
23 worked 50 hours, then what is two to three fittings?

24 A. Well, each fitting -- I mean, I would say it
25 was close to 50 hours, close to as well.

1 Q. And can you tell the jury what fittings you
2 went to that week?

3 A. No.

4 Q. What about the week before you took off the
5 Friday, that is, the week of Monday, April the 16th,
6 2012, through Friday, April the 20th of 2012, can you
7 tell the jury how many hours you worked that week?

8 A. I'm sorry. Could you restate that again?

9 Q. Sure. Can you tell the jury how many hours you
10 worked the week of Monday, April the 16th, through
11 Friday, April the 20th of 2012?

12 A. I mean, over 50 hours because I went to
13 fittings. It was big fitting season. And do I remember
14 which fittings I attended? No, I do not.

15 Q. Do you remember how many fittings you attended?

16 A. No.

17 Q. How many hours over 50 hours do you think you
18 worked that week?

19 A. I don't know.

20 Q. Can you tell the jury how many hours you worked
21 from Monday, April the 9th, through Friday, April the
22 13th?

23 A. April 9th to April the 13th? I mean, every
24 week I attended at least three fittings, at least. And
25 if I saw a fitting calendar I could show you which

1 fittings I attended.

2 Q. What calendar?

3 A. There was a fitting calendar that we had that
4 -- when fitting was scheduled.

5 Q. Was it on the computer?

6 A. No. We had it on our big dry erase board and
7 it was scheduled who went to which fittings.

8 Q. Okay. Just so the jury understands, you're
9 talking about a calendar that's on a dry erase board --

10 A. Right.

11 Q. -- that existed back in 2012?

12 A. Yes.

13 Q. And was it erased every month?

14 A. No, because we kept it for three consecutive
15 months, so we kept it for a while.

16 Q. Okay. Okay. So when you left in May was there
17 a fitting calendar for March, April, May?

18 A. Yeah. Yes.

19 Q. Okay. And then what about when you were there
20 in February, was it February, March, April?

21 A. Yeah.

22 Q. And then they erased February and that would
23 become the May one?

24 A. No. Because the majority of our fittings took
25 place in March, April, May.

1 Q. And you have already told me all of the schools
2 that you can specifically remember attending fittings
3 at?

4 A. Yes, if I saw a calendar, yes, I could
5 remember.

6 Q. Well, you don't have any reason to believe that
7 a wipe board calendar from two years ago would still be
8 up --

9 A. Right.

10 Q. -- at Team Go Figure, right?

11 A. Right. It's not, no. But we also put it into
12 our Google calendar as well with Team Go Figure.

13 Q. How many fittings did Susan Elliot go to with
14 you?

15 A. A lot.

16 Q. How many?

17 A. I would -- At least 15 different fittings that
18 Susan went with me to different fittings, at least.

19 Q. On the 15, at least, fittings that Susan went
20 to with you, who else went to those fittings?

21 A. Well, it changed because sometimes it would be
22 Heather would just go to a fitting with me or Toni would
23 go to a fitting with me or Meredith would go to a
24 fitting with me. I mean, depend on how big the team
25 was.

1 A. Yes, that is my handwriting. I was just told
2 that I should write 40 to 80 hours -- 40 hours a week,
3 no matter what. I mean, I wasn't going to be paid any
4 more if I worked over that 40 hours. It was pointless
5 for me to clock in because I was salary, so --

6 Q. And who told you that? Who specifically told
7 you that?

8 A. Everybody.

9 Q. Who?

10 A. I mean, like Scott said I was salary --

11 Q. That's not what I'm -- I'm not asking who told
12 you you were salary. I'm asking who told you it was
13 pointless to write anymore than 80 hours on there?

14 A. I mean everybody did. I mean --

15 Q. Who?

16 A. -- it didn't matter. It was -- Scott, Toni,
17 Susan, that I might as well just write 80 hours, doesn't
18 matter, even if I worked more than that because I worked
19 usually weekends as well. Like I can tell you that -- I
20 think it was this weekend or the week -- last weekends
21 in March and February, I worked on the weekends to help
22 with catalog or I worked with fittings, as well.

23 Q. What did you -- Who did you work with on the
24 weekend in February?

25 A. In February I was working with Kristie and then

1 on --

2 Q. (BY MS. JACKSON) Okay.

3 A. -- there were a lot of variables with their
4 pricing.

5 Q. Okay.

6 A. I mean, everybody had to know the pricing,
7 everybody in the office.

8 Q. Going to hand you your interrogatory responses
9 that were filed in this lawsuit and ask you have you
10 ever seen this document before today?

11 A. Yes.

12 Q. Okay. And if you will flip to page 11, that's
13 where your interrogatory responses start. Do you see
14 that?

15 A. Uh-huh. Yes, I do.

16 Q. And did you provide the responses and answer --
17 I mean, I know your attorney typed these up, but did you
18 answer these questions?

19 A. With my attorney?

20 Q. Yes.

21 A. Yes, I did.

22 Q. Okay. And do you believe that the answers were
23 truthful and accurate?

24 A. Yes, I do agree.

25 Q. Do you recall what was in the Team Go Figure

1 BY MS. JACKSON:

2 Q. So the -- your testimony is that 50 percent of
3 your time was in customer service. And was that in the
4 morning usually?

5 A. Yes.

6 Q. Like from 9:00 -- 8:30 or 9:00 until --

7 A. Until 12:00, maybe even 1:00, 2:00, depending
8 upon the day.

9 Q. Okay. And then 25 of your percent was in
10 outside sales meetings?

11 A. Uh-huh.

12 Q. And 25 percent was fittings?

13 A. Yes.

14 Q. And that was your typical workday?

15 A. Yes.

16 MS. JACKSON: Okay. That's all the
17 questions I have. Pass the witness.

18 MR. MOULTON: Have no further questions.

19 (Deposition concluded at 6:36 p.m.)
20
21
22
23
24
25

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN ELLIOT,)
ARIEL KLEINSMITH AND)
ANTWAN LEE,)

Plaintiffs,)

VS.)

CIVIL ACTION

NO.: 3:13-cv-1509

TEAM GO FIGURE, L.L.P.,)
TEAM GO FIGURE AND SCOTT)
ESKRIDGE,)

Defendants.)

REPORTER'S CERTIFICATION
DEPOSITION OF ARIEL KLEINSMITH
JANUARY 7, 2014

I, Julie G. Davault, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, ARIEL KLEINSMITH, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
January 13, 2014, to the attorney for the witness for
examination, signature and return to me by February 12,
2014;

1 That the amount of time used by each party at the
2 deposition is as follows:

3 James Moulton, Esq.....00 HOUR(S):02 MINUTE(S)
4 Claudine Jackson, Esq.....02 HOUR(S):54 MINUTE(S)

5 That pursuant to information given to the
6 deposition officer at the time said testimony was taken,
7 the following includes counsel for all parties of
8 record:

9 FOR THE PLAINTIFFS:

10 James Moulton, Esq.
11 939 Highway 80 East
12 Suite 486
Mesquite, Texas 75150
(903) 780-2540
jim.moulton@gmail.com

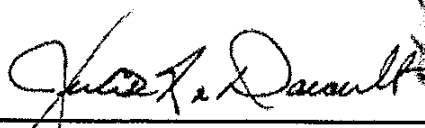

13 FOR THE DEFENDANTS:

14 Claudine Jackson, Esq.
15 BRACKETT & ELLIS, P.C.
16 100 Main Street
Fort Worth, Texas 76102
(817) 338-1700
cjackson@belaw.com

17 That \$ 887.55 is the deposition officer's
18 charges to the Defendants for preparing the original
19 deposition transcript and any copies of exhibits;

20 I further certify that I am neither counsel for,
21 related to, nor employed by any of the parties or
22 attorneys in the action in which this proceeding was
23 taken, and further that I am not financially or
24 otherwise interested in the outcome of the action.
25

1 Certified to by me this 13th day of January, 2014.

2
3
4  
5 Julie G. Davault, CSR, No. 2092
6 Expiration Date: 12/31/14
7 Merit Court Reporters, LLC
8 Firm Registration No. 133
9 307 W. 7th Street, Suite 1350
10 Fort Worth, Texas 76102
11 (817) 336-3042

12 Job No. 18227

13 FURTHER CERTIFICATION

14 The original deposition was was not returned to the
15 deposition officer on February 12, 2014 ;

16 If returned, the attached Changes and Signature
17 page contains any changes and the reasons therefor;

18 If returned, the original deposition was delivered
19 to Claudine Jackson , Custodial Attorney;

20 That \$ 887.55 is the deposition officer's
21 charges to the ^ for preparing the original deposition
22 transcript and any copies of exhibits.

23 That a copy of this certificate was served on all
24 parties shown herein.
25

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1 Certified to by me this 17th day of February,
2 2014.

3
4
5 By: Diana Calvery
6 FOR: Julie G. Davault, CSR, No. 2092
7 Expiration Date: 12/31/14
8 Merit Court Reporters, LLC
9 Firm Registration No. 133
307 W. 7th Street, Suite 1350
Fort Worth, Texas 76102
(817) 336-3042

10 Job No. 18227
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Exhibit “C”

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 TONI MILLER, SUSAN)
5 ELLIOTT, ARIEL)
6 KLEINSMITH AND ANTWAN)
7 LEE)
8)
9)
10 versus) CIVIL ACTION NO. 3:13-CV-1509
11)
12)
13 TEAM GO FIGURE, L.L.P.,)
14 TEAM GO FIGURE AND)
15 SCOTT ESKRIDGE)

9
10 *****
11 ORAL DEPOSITION
12 SCOTT ESKRIDGE
13 DECEMBER 5, 2013
14 *****

15
16
17 ANSWERS AND ORAL DEPOSITION OF SCOTT ESKRIDGE, a
18 witness produced at the instance of the Plaintiff, was
19 taken in the above-styled and numbered cause on the 5TH
20 day of DECEMBER 2013, from 2:12 p.m. to 4:24 p.m.,
21 before VANESSA S. ROBERTSON, CSR in and for the State
22 of Texas, reported by machine shorthand, at the offices
23 of Brackett & Ellis, 100 Main Street, Fort Worth,
24 Texas, pursuant to the Texas Federal Rules of Civil
25 Procedure.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

2

A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. JAMES MOULTON
JAMES MOULTON, ATTORNEY AT LAW
3939 HIGHWAY 80
SUITE 486
MESQUITE, TEXAS 75150
(972) 698-0999
jim.moulton@gmail.com

FOR THE DEFENDANT:

MS. ANDREA WHALEN
MS. CLAUDINE JACKSON
BRACKETT & ELLIS
100 MAIN STREET
FORT WORTH, TEXAS 76102
(817) 338-1700
awhalen@belaw.com
cjackson@belaw.com

ALSO PRESENT:

MS. TONI MILLER
MS. SUSAN ELLIOTT

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214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
 Deposition of: SCOTT ESKRIDGE

12/5/2013

3

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Deposition of: SCOTT ESKRIDGE

12/5/2013

4

1 P R O C E E D I N G S
2 THE COURT REPORTER: At this time
3 the deposition of Scott Eskridge, a witness being
4 deposited by the plaintiff is being taken in Cause
5 No. 3:31-CV-1509 styled Miller, et al. versus Team Go
6 Figure, et al., commencing at 2:12 p.m., December 5th,
7 2013 at the offices of Brackett & Ellis located at 100
8 Main Street, Fort Worth, Texas. The court reporter
9 taking the deposition is Vanessa Robertson with U.S.
10 Legal Support in Dallas, Texas.

11 Will counsel please state their
12 appearances for the record.

13 MR. MOULTON: James Moulton for
14 plaintiffs.

15 MS. JACKSON: Claudine Jackson for
16 the defendants.

17 SCOTT ESKRIDGE,
18 having being first duly sworn, testified as follows:

19 * * * E X A M I N A T I O N * * *

20 BY MR. MOULTON:

14:12 21 Q All right. Mr. Eskridge, your -- with the
22 notice for your deposition was sent some request for
23 production, we requested all documents showing outside
24 sales made by Ariel Kleinsmith. Have you produced
25 those documents?

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214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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1 own?
2 A 5.
14:24 3 Q 5 each or cumulative?
4 A 5 each.
14:24 5 Q Now, does Team Go Figure still operate as a
6 limited liability partnership?
7 A Yes, sir.
14:24 8 Q I heard a rumor that it was now being
9 operated as a general partnership; is that --
10 A Rumor didn't happen.
14:24 11 Q -- true?
12 That never occurred?
13 A Yes, sir.
14:24 14 Q And actually in your answer to the lawsuit,
15 it was mentioned that it was being operated as a
16 general partnership. That's untrue?
17 A Yes, sir. The CPA that I had was going to do
18 the paperwork for us --
14:24 19 Q Okay.
20 A -- to get it done. And he was telling me
21 that I was supposed to be doing it. I thought he was
22 doing it and neither one of us had ever gotten it
23 done.
14:25 24 Q Okay. Are you general partner for the LLP?
25 A I go as owner or president.

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214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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14:25 1 Q Okay. Do you know how --
2 A General partner, yes, sir, I would be the
3 general partner.
14:25 4 Q Okay. Are you familiar with how LLPs are
5 supposed to be operated?
6 A Not entirely.
14:25 7 Q Okay. Is there a separate corporation that
8 actually is the general partner or is it just you
9 individually?
10 A Just me individually.
14:25 11 Q All right. Have you ever been sued before?
12 And I know about Penny Durette, we don't have to get
13 into that. Have you been sued in any other context?
14 A No, sir.
14:26 15 Q No?
16 A No.
14:26 17 Q Have you ever been sued in small claims
18 court?
19 A I had a small claims on the printing of my
20 catalog in 2000.
14:26 21 Q Did Toni Miller sue you in small claims
22 court?
23 A Oh, okay. If that's -- I guess so, yes.
14:26 24 Q And how did that lawsuit end?
25 A She was awarded \$1200.

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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

23

1 MS. JACKSON: Okay.

14:34 2 Q (By Mr. Moulton) Do you understand,
3 Mr. Eskridge, that there are different exemptions under
4 the FLSA?

5 A Uh-huh.

14:35 6 Q Do you understand that?

7 A Yes.

14:35 8 Q Can you name for me the different
9 exemptions?

10 A If someone is a managerial or administrative
11 person, if someone has a weekly salary of \$455 or
12 something of that nature.

14:35 13 Q And when did you learn this information?

14 A When I was sued.

14:35 15 Q Okay. Did you have any idea that those
16 requirements existed prior to this lawsuit?

17 A I did not.

14:35 18 Q Okay. So in other words, you didn't actually
19 consult an attorney or anything else when you decided
20 these people were exempt?

21 A No.

14:35 22 Q Okay. And that goes for any person that was
23 salaried at Team Go Figure while my clients were there,
24 correct?

25 A Yes.

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214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

29

1 A No, sir.

14:53 2 Q Wasn't there an incident where cash got
3 stolen from Team Go Figure?

4 A Yes.

14:53 5 Q Where was that cash stolen from?

6 A It was where Susan Elliott said she put it,
7 in the back of a cabinet.

14:54 8 Q Is that where cash was kept?

9 A It was -- it was where she put it. It is not
10 where -- cash was supposed to have been deposited
11 everyday and taken out of the building. There was only
12 \$200 petty cash that we would keep.

14:54 13 Q So when she says there's an owner's safe,
14 she's just wrong about that?

15 A It's not the truth.

14:54 16 Q Okay. Now, when she talks about being made
17 aware of overtime that was being paid to -- that was
18 not being paid to employees, you don't recall any --
19 any complaints about overtime not being paid to
20 employees?

21 A No.

14:54 22 Q All right. Going to, if you look through, I
23 don't have page numbers on these. It's about the fifth
24 or sixth page in. It is her resignation letter dated
25 April 22nd, 2011. Do you recall getting this

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1 resignation letter?

2 A I do now.

14:55 3 Q Can you read it, please?

4 A Dear Sirs, As of April 22nd, 2011, I
5 respectfully resign the full charge bookkeeper position
6 that was offered to me on April 8th, 2011, that I have
7 been in training for since April 12th, 2011. I am
8 resigning for the following reason: I cannot sign my
9 name to a payroll of any kind that might not comply
10 with the United States Department of Labor Wage & Hour
11 Division Laws and Regulations. Please send me my the
12 final check for the pay period April 20th to May 3rd.
13 I worked from April 20th to April 22nd.

14:56 14 Q After receiving this letter, did you do any
15 sort of investigation into your pay policies to
16 determine whether or not they were compliant with the
17 Department of Labor Wage & Hour Division Laws?

18 A No.

14:56 19 Q Do you remember the appeal, if you flip the
20 page, you have got the June 13th, 2011, she appealed
21 the denial of her unemployment benefits. Do you recall
22 that appeal?

23 A No.

14:56 24 Q Do you recall receiving this document from
25 the Texas Workforce Commission?

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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

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1 A Yes.

15:12 2 Q Okay. I mean, you'd agree with me that the
3 law requires you to pay all of the hours that an
4 employee works, correct?

5 A Correct.

15:13 6 Q Do you recall the reason that -- well, never
7 mind, strike that.

8 (Exhibit No. 16 was marked.)

15:13 9 Q (By Mr. Moulton) Let's get that exhibit back
10 in order, if we could. Do you have the paper clip
11 still?

12 A Yeah.

13 MS. JACKSON: We have a stapler.

14 THE WITNESS: I might not have put
15 it back in the right order, so...

15:14 16 Q (By Mr. Moulton) Now, as you will recall
17 this lawsuit was initially filed by four plaintiffs,
18 which included Antwan Lee. I'll hand you what is
19 marked as Exhibit 16. Can you tell me what those
20 documents are?

21 A This is a text message.

15:15 22 Q All right. And can you give me some of the
23 background behind those text messages, please?

24 A It started with Rick came into my -- I can't
25 remember his last name, he works at Dallas Spandex. He

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1 came into my office wanting to buy fabric. And we just
2 started chit-chatting and somehow we got around that,
3 you know, of -- he said, oh, I got an employee that
4 used to work here. I said, really, who is that? He
5 said, Antwan Lee. I said, well, did you know Antwan is
6 in a lawsuit with me? And he said, no, I didn't. I
7 said, what does he do for you? He says, he's my
8 manager. And I said, oh, okay. And I said, well, you
9 know, it is just he's in a lawsuit with me. And he
10 said, well, I didn't realize that. I wish he had told
11 me something -- my employee had told me that, you know,
12 before I came over here. And so when he left that day,
13 probably within 20 minutes or so, Antwan Lee sent me a
14 text message saying that he's made some -- a mistake
15 and, you know, et cetera, didn't realize what I was
16 into, something of that nature. This text might be one
17 behind here, I'm not sure. And so then, you know, with
18 that, I took and looked up Ariel's -- tried to find
19 whether I had Ariel's record of her text -- of her
20 phone and again, hoping I could get her out of this as
21 well. So I sent her a message saying, you know,
22 something in this text message that you had here.

15:16 23 Q Okay. So the -- Rick was Antwan's boss?

24 A Yes.

15:17 25 Q And so you talked to Rick and you claimed

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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

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15:26 1 Q Do you know whether or not she ever worked
2 any overtime hours?

3 A No.

15:26 4 Q If she claimed to have worked 50 hours, 40
5 hours, 60 hours, you wouldn't know one way or the
6 other?

7 A No.

15:26 8 Q All right. Susan Elliott, did Sandra help in
9 the hiring of Susan Elliott?

10 A I don't recall. No, I don't believe she
11 did.

15:27 12 Q I'll show you what's been marked as Exhibit
13 7. Can you tell me what that document is?

14 A This was the ad we ran for a bookkeeper.

15:27 15 Q And what -- where did you run it?

16 A Well, I guess it was in Facebook -- not in
17 Facebook, but in Craigslist.

15:27 18 Q Okay. And on it it says, The primary
19 responsibilities are and then it goes through a long
20 list?

21 A Uh-huh.

15:27 22 Q Can you see any responsibilities on that list
23 that -- well, did she perform any -- in the actual
24 performance of her duties, did she perform any duties
25 that are not listed on Exhibit 7?

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Deposition of: SCOTT ESKRIDGE

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1 A Yes.

15:28 2 Q What?

3 A She did HR work.

15:28 4 Q Okay. What else?

5 A She made decisions on if invoices were to --

6 if the orders were to be shipped or not shipped. She

7 made decisions on credit card statements being paid off

8 early, deposits in the bank, transferring of money.

9 She released orders without deposits.

15:28 10 Q Anything else?

11 A She made decisions on if people were to

12 receive sick pay, vacation pay.

15:29 13 Q Anything else?

14 A I'm sure there's more, I just can't think of

15 them all right now.

15:29 16 Q All right. Do you recall -- well, first of

17 all --

18 A In her interview was she told about HR?

15:29 19 Q Excuse me?

20 A When her interview, when she had the

21 position, she was also told we are a small company and

22 you wear many hats and you will also do HR work and

23 there will be other things that you'll be doing.

24 MS. JACKSON: Wait for his

25 question.

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12/5/2013

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1 THE WITNESS: Okay.

15:29 2 Q (By Mr. Moulton) If you look to the back of
3 that page --

4 MS. JACKSON: I'm going to staple
5 it.

6 MR. MOULTON: Thank you.

15:29 7 Q (By Mr. Moulton) If you look to the second
8 page on that, it tells you what pay was supposed to be
9 for that position?

10 A Uh-huh.

15:30 11 Q Do you see that?

12 A Yes.

15:30 13 Q And what does it say?

14 A 18 hours [sic].

15:30 15 Q Hourly?

16 A 18 hour full-time.

15:30 17 Q That's not salary, is it?

18 A No.

15:30 19 Q Okay. Can you tell me what Exhibit 12 is.

20 A It's Susan's resume.

15:30 21 Q Do you recall looking at her resume?

22 A Yes.

15:30 23 Q Did you actually investigate any of her
24 previous employers?

25 A Just one.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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15:30 1 Q Which one?

2 A The last one she worked at, Kalogridis.

15:30 3 Q Actually if you look at following page,
4 there's another one. Two more. Oh, when you say last,
5 you mean last in time.

6 A Yes, the last one she had worked for.

15:31 7 Q Okay. So if -- if she was to testify that --
8 that the duties she performed at any one of those
9 employers was the same as what she performed at Team Go
10 Figure, you wouldn't have any means of disputing that,
11 would you?

12 A No, sir, I don't know what she did there.

15:31 13 Q Okay. Do you know what hours Susan Elliott
14 worked?

15 A No.

15:31 16 Q So if she was to testify that she worked at
17 least in excess of 90 hours in a week, you would have
18 no basis for disputing such a claim?

19 A No.

15:32 20 Q Do you know whether or not she worked from
21 home?

22 A No.

15:32 23 Q Do you know whether or not she worked in
24 excess of 40 hours in any given week?

25 A Yes.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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I, SCOTT ESKRIDGE, have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except as noted above:

SCOTT ESKRIDGE

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on
this day personally appeared SCOTT ESKRIDGE, known to
me (or proved to me under oath or through
_____) (description of identity card or
other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that they executed the same for the purposes and
consideration therein expressed.

Given under my hand and seal of office this
_____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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1 STATE OF TEXAS X

2 COUNTY OF DALLAS X

3

4 I, Vanessa S. Robertson, a Certified
5 Shorthand Reporter duly commissioned and qualified in
6 and for the State of Texas, do hereby certify that
7 there came before me on the DECEMBER 5, 2013 at
8 Brackett & Ellis, 100 Main Street, Fort Worth, the
9 following named person, to-wit: SCOTT ESKRIDGE, who was
10 duly sworn to testify to the truth, the whole truth,
11 and nothing but the truth of knowledge touching and
12 concerning the matters in controversy in this cause;
13 and that he was thereupon examined under oath and his
14 examination reduced to typewriting under my
15 supervision; that the deposition is a true record of
16 the testimony given by the witness.

17 I further certify that pursuant to FRCP Rule
18 30(e)(1) that the signature of the deponent:

19 ___X___ was requested by the deponent or a
20 party before the completion of the deposition, and that
21 signature is to be before any notary public and
22 returned within 30 days from date of receipt of the
23 transcript;

24 _____ was not requested by the deponent or a
25 party before the completion of the deposition.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

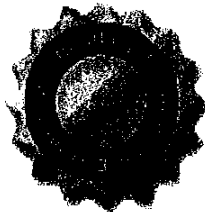
MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: SCOTT ESKRIDGE

12/5/2013

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1 I further certify that I am neither attorney
2 or counsel for, nor related to or employed by any of
3 the parties to the action in which this deposition is
4 taken, and further that I am not a relative or employee
5 of any attorney or counsel employed by the parties
6 hereto; or financially interested in the action.

7 Certified to by me this _____ day of
8 _____, 2013.



11 Vanessa S. Robertson
12
13

VANESSA S. ROBERTSON

TEXAS CSR 4930

EXPIRATION DATE: 12/31/2013

FIRM REGISTRATION No. 343

U.S. LEGAL SUPPORT

5910 NORTH CENTRAL EXPRESSWAY

SUITE 100

DALLAS, TEXAS 75206

(214) 741-6001

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

Exhibit “D”

FIRST REQUEST FOR ADMISSIONS

REQUEST NO. 1. Admit that the documents bates numbered Plaintiffs' 409-417 are a copy of a Team Go Figure report, entitled "Report of Hours Worked -- All Departments Report from 4/6/2011 to 4/19/2011 -- Worked Hours All Employees".

RESPONSE: Admitted.

REQUEST NO. 2: Admit that for the work week ending 4/12/11, employee Tuong Le Tran worked 54.94 hours.

RESPONSE: Defendant admits that for the work week ending 4/12/11, employee Tuong Le Tran clocked in and out to report hours worked in the amount of 54.94, but otherwise denies this Request.

REQUEST NO. 3: Admit that for the work week ending 4/12/11, Team Go Figure did not pay Tuong Le Tran any overtime wages.

RESPONSE: Admitted.

REQUEST NO. 4: Admit that Tuong Le Tran's actual time card records reflect that on 4/7/11, Tuong Le Tran clocked in at 5:32 AM, and clocked out at 4:32 PM.

RESPONSE: Admitted.

REQUEST NO. 5: Admit that Tuong Le Tran was only credited for working 10.50 hours on 4/7/11.

RESPONSE: Admitted.

REQUEST NO. 6: Admit that according to the actual punch in and out times of Tuong Le Tran for the work week ending 4/12/11, Tuong Le Tran was actually on the clock for 57.44 hours.

RESPONSE: Denied.

REQUEST NO. 7: Admit that for the entire pay period ending 4/19/11, Tuong Le Tran was credited for working 81.67 hours.

RESPONSE: Denied.

REQUEST NO. 8: Admit that for the entire pay period ending 4/19/11, Tuong Le Tran was on the clock for 85.67 hours.

RESPONSE: To the extent "on the clock" means working, Defendant denies this Request.

REQUEST NO. 9: Admit that Team Go Figure only paid Tuong Le Tran for 80 hours of work for the pay period ending on 4/19/11.

RESPONSE: Admitted.

REQUEST NO. 10: Admit that Team Go Figure did not pay Tuong Le Tran minimum wage for any hours worked in excess of 80 hours for the pay period ending on 4/19/11.

RESPONSE: Admitted.

REQUEST NO. 11: Admit that as of 4/19/11, it was the practice of Team Go Figure to calculate overtime wages by the amount hours worked over 80 in a two week period.

RESPONSE: Admitted.

REQUEST NO. 12: Admit that Team Go Figure automatically deducts 30 minutes from every hourly employee's daily time records.

RESPONSE: To the extent "automatically deducts" refers to the required 30 minute lunch period and the amount of time in which employees are instructed to go on their lunch break, then Defendant admits this request. Defendant, however, denies as automatic deduction occurs if an employee reports he/she worked through lunch or if Defendant knows an employee works through lunch.

REQUEST NO. 13: Admit that for the pay period ending 4/19/11, Team Go Figure did not pay any overtime pay to any employee of Team Go Figure.

RESPONSE: Admitted.

REQUEST NO. 14: Admit that since April of 2010 Team Go Figure has on more than one occasion reduced the amount of hours worked by hourly employees in order to avoid paying overtime wages.

RESPONSE: Denied.

REQUEST NO. 15: Admit that the Team Go Figure, Inc. Personnel Policy bates numbered TFG-000572 – 000580 and purportedly signed by Toni Miller on 3/16/11 was the Personnel Policy manual in effect for Team Go Figure on 3/16/11.

RESPONSE: Admitted.

REQUEST NO. 16: Admit that Team Go Figure had sales in excess of \$500,000 for the year of 2010.

RESPONSE: Admitted.

REQUEST NO. 17: Admit that Team Go Figure had sales in excess of \$500,000 for the year of 2011.

RESPONSE: Admitted.

REQUEST NO. 18: Admit that Team Go Figure had sales in excess of \$500,000 for the year of 2012.

RESPONSE: Admitted.

REQUEST NO. 19: Admit that Team Go Figure had sales in excess of \$500,000 for the year of 2013.

RESPONSE: Admitted.

Exhibit “E”

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: TABITHA CORKER

12/4/2013

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 TONI MILLER, SUSAN)
5 ELLIOTT, ARIEL)
6 KLEINSMITH AND ANTWAN)
7 LEE)
8 versus) CIVIL ACTION NO. 3:13-CV-1509
9)
10 TEAM GO FIGURE, L.L.P.,)
11 TEAM GO FIGURE AND)
12 SCOTT ESKRIDGE)

13 *****
14 ORAL DEPOSITION
15 TABITHA CORKER
16 DECEMBER 4, 2013
17 *****

18 ANSWERS AND ORAL DEPOSITION OF TABITHA CORKER, a
19 witness produced at the instance of the Plaintiff, was
20 taken in the above-styled and numbered cause on the 4TH
21 day of DECEMBER 2013, from 10:14 a.m. to 11:32 a.m.,
22 before VANESSA S. ROBERTSON, CSR in and for the State
23 of Texas, reported by machine shorthand, at the offices
24 of Brackett & Ellis, 100 Main Street, Fort Worth,
25 Texas, pursuant to the Texas Federal Rules of Civil
Procedure.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: TABITHA CORKER

12/4/2013

2

A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. JAMES MOULTON
JAMES MOULTON, ATTORNEY AT LAW
3939 HIGHWAY 80
SUITE 486
MESQUITE, TEXAS 75150
(972) 698-0999
jim.moulton@gmail.com

FOR THE DEFENDANT:

MS. ANDREA WHALEN
BRACKETT & ELLIS
100 MAIN STREET
FORT WORTH, TEXAS 76102
(817) 338-1700
awhalen@belaw.com

ALSO PRESENT:

MS. TONI MILLER
MS. SUSAN ELLIOTT
MR. SCOTT ESKRIDGE

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

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* * *

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U.S. LEGAL SUPPORT - DALLAS, TEXAS
 214-741-6001

P R O C E E D I N G S

1
2 THE COURT REPORTER: At this time
3 the deposition of Tabitha Corker, a witness being
4 deposited by the plaintiff is being taken in Cause
5 No. 3:31-CV-1509 styled Miller, et al. versus Team Go
6 Figure, et al., commencing at 10:14 a.m. on December
7 4th, 2013 at the offices of Brackett & Ellis, located
8 at 100 Main Street, Fort Worth, Texas. The court
9 reporter taking the deposition is Vanessa Robertson
10 with U.S. Legal Support in Dallas, Texas.

11 And will counsel please state their
12 appearances for the record.

13 MR. MOULTON: James Moulton for
14 plaintiffs.

15 MS. WHALEN: Andrea Whalen,
16 defendants.

17 TABITHA CORKER,
18 having being first duly sworn, testified as follows:

19 * * * E X A M I N A T I O N * * *

20 BY MR. MOULTON:

10:15 21 Q All right. Tabitha, my name is Jim Moulton,
22 James is my proper name, but I go by Jim. Have you
23 ever given your deposition before?

24 A No.

10:15 25 Q It can be a little intimidating. I hope you

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: TABITHA CORKER .

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23

1 A No.

10:39 2 Q Now, for the fitting and deliveries, do you
3 recall typically what time of day the fittings and
4 deliveries were?

5 A Fittings are typically in the latter part of
6 the afternoon.

10:39 7 Q When you say latter part, what does that
8 mean?

9 A 4:30 would be a fair estimate of the time to
10 start them.

10:39 11 Q Okay.

12 A Deliveries are usually earlier in the day.
13 Usually during the school hours, which would be, you
14 know, 8:00 to 3:00 in the afternoon, sometime in that
15 time frame in a typical case.

10:39 16 Q And a fitting, a typical fitting, how long
17 would it last?

18 A It depends on the size of the team, anywhere
19 from an hour to three hours.

10:39 20 Q What's the latest time that you ever left a
21 fitting that you can recall?

22 A The latest time I ever left a fitting would
23 be 8:00 o'clock at night.

10:40 24 Q So if you started at 4:30, that's three and a
25 half hours?

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

1 A Sure, yes.

10:40 2 Q Now, if you were working 40 hours a week and
3 then went to a fitting that didn't get out until 8:00,
4 then that would put you over 40 hours, wouldn't it?

5 MS. WHALEN: Objection; form. This
6 is vague and misleading.

7 A Yes.

10:40 8 Q (By Mr. Moulton) That's fine. Correct?

9 A Yes.

10:40 10 Q Okay. Do you think that due to fittings and
11 deliveries, you've ever worked more than 40 hours in a
12 week?

13 A Yes.

10:40 14 Q How --

15 MS. WHALEN: Same objection.

10:40 16 Q (By Mr. Moulton) How many hours a week,
17 between -- how many hours a week do you think you --
18 during the fitting and delivery periods, I believe you
19 said it was in March and April, how many hours a week
20 do you think you were working?

21 A An estimate of time frame for myself would be
22 probably 45 hours.

10:41 23 Q Is that just one fitting a week?

24 A Yes.

10:41 25 Q Okay. Did you ever attend more than one

MILLER, ET AL v. TEAM GO FIGURE, ET AL
 Deposition of: TABITHA CORKER

12/4/2013

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I, TABITHA CORKER, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above:

 TABITHA CORKER

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared TABITHA CORKER, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 20__.

 NOTARY PUBLIC IN AND FOR
 THE STATE OF _____

U.S. LEGAL SUPPORT - DALLAS, TEXAS
 214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: TABITHA CORKER

12/4/2013

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1 STATE OF TEXAS X

2 COUNTY OF DALLAS X

3

4 I, Vanessa S. Robertson, a Certified
5 Shorthand Reporter duly commissioned and qualified in
6 and for the State of Texas, do hereby certify that
7 there came before me on the DECEMBER 4, 2013 at
8 Brackett & Ellis, 100 Main Street, Fort Worth, the
9 following named person, to-wit: TABITHA CORKER, who was
10 duly sworn to testify to the truth, the whole truth,
11 and nothing but the truth of knowledge touching and
12 concerning the matters in controversy in this cause;
13 and that she was thereupon examined upon oath and her
14 examination reduced to typewriting under my
15 supervision; that the deposition is a true record of
16 the testimony given by the witness.

17 I further certify that pursuant to FRCP Rule
18 30(e)(1) that the signature of the deponent:

19 __X__ was requested by the deponent or a
20 party before the completion of the deposition, and that
21 signature is to be before any notary public and
22 returned within 30 days from date of receipt of the
23 transcript;

24 ____ was not requested by the deponent or a
25 party before the completion of the deposition.

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

MILLER, ET AL v. TEAM GO FIGURE, ET AL
Deposition of: TABITHA CORKER

12/4/2013

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1 I further certify that I am neither attorney
2 or counsel for, nor related to or employed by any of
3 the parties to the action in which this deposition is
4 taken, and further that I am not a relative or employee
5 of any attorney or counsel employed by the parties
6 hereto; or financially interested in the action.

7 Certified to by me this ____ day of
8 _____, 2013.

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Vanessa S. Robertson



VANESSA S. ROBERTSON

TEXAS CSR 4930

EXPIRATION DATE: 12/31/2013

FIRM REGISTRATION No. 343

U.S. LEGAL SUPPORT

5910 NORTH CENTRAL EXPRESSWAY

SUITE 100

DALLAS, TEXAS 75206

(214) 741-6001

U.S. LEGAL SUPPORT - DALLAS, TEXAS
214-741-6001

Exhibit “F”

DECLARATION OF KATHLEEN CRAIG

1. My name is Kathleen Craig. I am over the age of 21, of sound mind, have never been convicted of a felony, and am competent to make this declaration. Every statement herein is within my personal knowledge and is true and correct.

2. I have more than 21 years of pay roll experience.

3. In April of 2011, I worked as a book keeper for Team Go Figure for approximately two weeks.

4. I was paid hourly while I worked for Team Go Figure.

5. During the two week period that I worked at Team Go Figure, I personally observed Team Go Figure manipulate employees' time cards in order to avoid paying overtime for hours worked.

6. I also noted that many non-exempt employees were being paid a salary, and were not being compensated for overtime hours.

7. I also found that IRS 940 and 941 forms were being falsified, I-9's were knowingly falsified, and that Team Go Figure was knowingly employing at least one undocumented worker.

8. Upon learning of these unlawful activities occurring at Team Go Figure, I refused to participate in such illegal activities, and resigned my position. Upon resigning, I gave Scott Eskridge and Scott Kenworthy copies of my resignation letter, a true and exact copy of which is attached hereto.

9. After resigning, I filed for unemployment benefits, which were initially denied. I then filed an appeal, and documented in detail many of the FLSA violations and other illegal activities occurring at Team Go Figure, with documentation to back up such allegations. I have

attached true and correct copies of the appeal documents hereto.

10. Pursuant to the appeals rules, prior to the hearing, I faxed supporting evidence directly to Team Go Figure. A true and correct copy of the fax, fax confirmation, cover letter and supporting evidence is attached hereto.

I declare that under penalty of perjury that the foregoing is true and correct.

Executed on the 12th day of March, 2014


Kathleen Craig

Kathleen M. Craig
2505 Dillon Drive
Garland, TX 75040

April 22, 2011

Team Go Figure
310 N. Country Club Road
Garland, Texas 75040

Attn: Scott Eskridge & Ken Kenworthy

Dear Sirs,

As of April 22, 2011, I respectfully resign the full charge bookkeeper position that was offered to me on April 8, 2011, that I have been in training for since April 12, 2011.

I am resigning for the following reason:

- I cannot sign my name to a payroll report of any kind that might not comply with the United States Department of Labor, Wage & Hour Division Laws and Regulations.

Please send my final check for the pay period April 20 – May 3, 2011, that I worked from April 20 – April 22, 2011 to 2505 Dillon Drive, Garland, Texas 75040.

Thank you,


Kathleen Craig
2505 Dillon Drive
Garland, Texas 75040

FAX COVER LETTER

Date: August 16, 2011

Attn: Scott Eskridge or Ken Kenworthy

Fax No: 972-276-5001

Pages: 5 (Five) - Including this cover

Re: Documents to be presented at Telephone Hearing

From: Kathleen M. Craig

Comments:

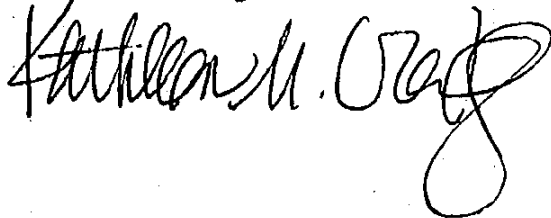
Dear Sirs:

I am submitting the following documents required by TWC to be presented on my behalf for the telephone hearing that is scheduled to take place on August 18, 2011 at 9:00am.

- 1) Check Stubs for Jose Elias Berumen & Hue L Uong for week ending 4-19-11.**
- 2) A Receipt from USPS for copies & mailing documents on 6/14/11, the deadline to submit my appeal.**
- 3) A print out from USPS.COM confirming the arrival at Austin on June 18, 2011, the first attempted notice left with no response, and finally the delivery to TWC Appeals Tribunal on June 20, 2011.**
- 4) My Certified Return Receipt to the Appeal Tribunal, stamped & delivered on June 20, 2011**

Thank you,

Kathleen M. Craig

A handwritten signature in black ink, appearing to read 'Kathleen M. Craig', with a large, stylized loop at the end.

Jose Elias Berumen

week ending 04/19

4/22/2011

14637

1,280.00

Compass Bank - Che

1,280.00

PRODUCT DLT100 USE WITH 91003 ENVELOPE

TEAM GO FIGURE, INC.

14635

Employee				SSN	Status (Fed/State)	Allowances/Extra
Hue L Uong, 11738 Kirk, Dallas, TX 75228				1067	Married/(none)	Fed-3/0/TX-0/0
				Pay Period: 04/08/2011 - 04/19/2011		
				Pay Date: 04/22/2011		
Earnings and Hours	Qty	Rate	Current	YTD Amount		
Hourly Rate 1	80.00	6.50	680.00	4,193.66		
Taxes			Current	YTD Amount		
Federal Withholding			0.00			
Social Security Employee			-28.56	-175.71		
Medicare Employee			-9.88	-60.68		
			-38.42	-236.37		
Net Pay			641.58	3,947.29		

Team Go Figure, Inc., 301 N. Country Club Rd., Garland, TX 75040, 972-278-8700 Fax 972-278-5001
 PRODUCT DLT100 USE WITH 91003 ENVELOPE

The UPS Store - #5257
5435 N. Garland Ave
Suite 140
Garland, TX 75040
(972) 675-0877

06/14/11 12:55 PM

We are the one stop for all your
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to keep your business going.



001 500661 (022)	TO \$	9.70
CERTIFIED RET REC		
002 500665 (022)	TO \$	2.85
1ST CL FLAT 04 07		
003 000001 (003)	11 \$	1.60
Copies	QTY 20	
Reg Unit Price	\$	0.08

Subtotal	\$	14.15
Taxable (11)	\$	0.14
Total	\$	14.29

Master Card \$ 14.29
ACCOUNT NUMBER * *****8154
Appr Code: (S) Sale

Receipt ID: 6272/43317533888372 022 Items
CSN: Mandy Tran: 9110 Reg: 602

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Please come back again soon.

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needs, we are here to serve you.

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WIN \$1000

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satisfaction survey located at:

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conditions go to www.theupsstore.com
and click on the Customer Experience
Survey link

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Page 1 of 1

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Register / Sign In



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Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

Track & Confirm

Track by ZIP Code or Package Number

YOUR LABEL NUMBER

70022410000061882150

STATUS

DELIVERY HISTORY

EST. DATE

LOCATION

STATUS

Delivered

June 20, 2011 5:40 am

AUSTIN TX 78714

Confirmed Mail™

Notice Left to
Authorized Recipient
(Available)

June 16, 2011 6:33 am

AUSTIN TX 78776

Arrival at Unit

June 18, 2011 5:23 am

AUSTIN TX 78710

Check on Another Item

What's your label (or receipt) number?



LEGAL

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Terms of Use

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NO FEAR Act EEO Data

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<https://tools.usps.com/go/TrackConfirmAction.action>

8/3/2011

<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p>	
<p>B. Received by (Printed Name)</p>		<p>C. Date of Delivery</p>	
<p>D. Is delivery restricted? If YES, RESTRICTED DELIVERY</p>		<p>JUN 20 2011</p>	
<p>1. Article Addressed to: Appeal Tribunal! Texas Workforce Commission 101 East 15th Street Houston, TX 78778-0002</p>			
<p>2. Service Type Austin, Texas 78778</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>			
<p>3. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>			
<p>2. Article Number (Transfer from service label)</p> <p>7002 2410 0000 6188 2199</p>		<p>Domestic Return Receipt</p>	
<p>PS Form 3811, August 2001</p>			

TRANSMISSION VERIFICATION REPORT

TIME : 09/16/2011 02:26
NAME :
FAX :
SER. # : BROG8F808472

DATE, TIME	09/16 02:26
FAX NO./NAME	9722765001
DURATION	00:00:56
PAGE(S)	05
RESULT	OK
MODE	STANDARD
	ECM



**Texas Workforce Commission
Appeal Tribunal**



**TWC Building
Austin, Texas 78778**

08-26-2011
Date Mailed

CLAIMANT:

KATHLEEN M. CRAIG
2505 DILLON DR
GARLAND TX 75040-8843

Appeal No. 1473879-1-1
S.S. No. 456-73-1058
I. C. Date EXB001 02/20/2011
Appeal Filed By: Claimant
Date Appeal Filed: 06/16/2011

Notice: The attached decision of the Appeal Tribunal will become final unless, within **FOURTEEN (14) DAYS** after the date mailed, further action is taken in accordance with the instructions contained in this decision. The last day on which you may file an appeal is **09-09-2011**. This date takes into account any official Texas State or Federal holiday which would extend the appeal time limit.

Appearances:

Date/Location	For Claimant	For Employer
08/18/2011 Telephone	KATHLEEN CRAIG	NONE

EMPLOYER: PI: NPI: X Account No. 07-386349-0
EMPLOYER HAS NO APPEAL RIGHTS

TEAM GO FIGURE INC
301 N COUNTRY CLUB RD
GARLAND TX 75040-6601

A-1ATE (907) DATES ARE SHOWN AS MONTH, DAY, & YEAR.

TEXAS WORKFORCE COMMISSION Appeal Tribunal Decision

Appeal No.: 1473879-1-1

Page No: 2

CASE HISTORY: A determination dated May 31, 2011 disqualified the claimant under Section 207.045 of the Texas Unemployment Compensation Act because the claimant voluntarily resigned without good cause connected with the work. The no payment period began April 17, 2011 and continues until the claimant returns to employment and either works for six weeks or earns wages at least equal to six times the claimant's weekly benefit amount. The claimant appealed.

A determination dated May 31, 2011 ruled that the claimant had been paid unemployment insurance benefits to which the claimant was not entitled, causing an overpayment which the claimant is liable to repay under Section 212.006 of the Texas Unemployment Compensation Act. The claimant appealed.

ISSUES: The issues in this case include:

Whether the appellant filed a timely appeal.

Whether the claimant is entitled to Extended Benefits.

Whether the claimant was separated from the last work as a result of a discharge based on work-connected misconduct or a voluntary quit without good work-connected cause.

Whether the claimant received benefits to which the claimant was not entitled.

FINDINGS OF FACT: The claimant was mailed two Notices of Claim Determination on May 31, 2011, which ruled on various aspects of the claimant's entitlement to unemployment insurance benefits. Both determinations were mailed to the claimant's correct address of record with the Texas Workforce Commission as follows: Kathleen M. Craig, 2505 Dillon Drive, Garland, TX 75040-8843. The claimant received the determinations and appealed them on June 14, 2011, the last day that she could file a timely appeal.

Prior to filing a continued claim for unemployment insurance benefits with an effective date of April 23, 2011, the claimant last worked from April 12, 2011 through April 22, 2011, as bookkeeper for the named employer. The claimant's ending rate of pay was approximately \$19.00 per hour. She normally worked from 8:30 a.m. through 5:30 p.m., Monday through Friday of each week.

From the time that the claimant was employed, the claimant noticed that she was asked to prepare paychecks for employees which did not include the overtime that they were working. Payroll records would be given to the claimant showing that the employees worked 40 hours each week when the claimant was aware that they were working more hours each week. The claimant questioned her supervisor and other employees concerning the situation. The claimant was only told that that was the way the employer did business. The claimant also noticed that the employees were not paid for mileage as they should be. The claimant was not given a full period of time for her lunch break as she was told when she was hired. The claimant was told that she would be given a thirty-minute lunch break; however, the claimant would be asked to run errands for the employer on her lunch break on various occasions. When the claimant could not get a change in the employer's way of doing business, the claimant submitted her letter of resignation. She had discussed her differences with the employer's manner of doing business with the employer representatives on a number of occasions.

TEXAS WORKFORCE COMMISSION Appeal Tribunal Decision

Appeal No.: 1473879-1-1

Page No: 3

The claimant was paid unemployment insurance benefits in the amount of \$1,208.00 subsequent to the beginning date of the disqualification under Section 207.045 of the Act. Because of that disqualification, it was determined that the claimant was not entitled to the payment of these benefits.

CONCLUSIONS: Section 4001(d)(2) of the Supplemental Appropriations Act – 2008, Public Law 110-252, provides in relevant part that the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof.

The Emergency Unemployment Compensation Act of 1991 (Public Law 102164), as amended, established a program of payment of emergency unemployment compensation during periods of high unemployment to eligible individuals as prescribed in the Act. Generally, this program is subject to provisions of the Federal State Unemployment Compensation Act of 1970 and Section 209 of the Texas Unemployment Compensation Act.

Section 212.053 of the Act provides that an examiner's determination is final for all purposes unless the claimant or the person, branch, or division for which the claimant last worked files an appeal from the determination not later than the 14th calendar day after the date such determination was mailed to the claimant's, person's, or branch's last known address as shown by Commission records.

As the Notices of Claim Determination mailed to the claimant on May 31, 2011 were received by the claimant and appealed within fourteen calendar days from the date the determinations were mailed to her, the claimant's appeal dated June 14, 2011 must be considered timely.

Section 207.045 of the Act provides that an individual who left the individual's last work voluntarily without good cause connected with the work is disqualified until the individual has returned to employment and worked for six weeks or earned wages equal to six times the individual's benefit amount, unless the individual left work to move with a spouse from the area where the individual worked. In that case, the claimant shall be disqualified for not less than six nor more than twenty-five benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case. No individual who is available to work may be disqualified because the individual left work because of a medically verified illness of the claimant or claimant's minor child, injury, disability, pregnancy, an involuntary separation as described under Section 207.046 of the Act if the individual is available for work, or a move from the area of the individual's employment that was made with the individual's spouse who is a member of the armed forces of the United States; and resulted from the spouse's permanent change of station of longer than 120 days or a tour of duty of longer than one year. A medically verified illness of a minor child prevents disqualification under this section only if reasonable alternative care was not available to the child and the employer refused to allow the individual a reasonable amount of time off during the illness. Military personnel who do not reenlist may not be considered to have left work voluntarily without good cause connected with the work. An individual who is partially unemployed and who resigns that employment to accept other employment that the individual reasonably believes will increase the individual's weekly wage is not disqualified for benefits under this section.

Good cause connected with the work for leaving, as that term is used in the law of unemployment insurance, means such cause, related to the work, as would induce a person who is genuinely interested in retaining work to nevertheless leave the job.

TEXAS WORKFORCE COMMISSION Appeal Tribunal Decision

Appeal No.: 1473879-1-1

Page No: 4

The Appeal Tribunal concludes that the claimant quit her employment because she realized that the employer was not paying employees for overtime that was required. The Appeal Tribunal concludes that the claimant made every effort to resolve the situation by bringing her differences with the employer to the employer's attention. The claimant did everything she could to protect her job. As a result, the Appeal Tribunal concludes that the claimant quit for good cause connected with her work. Since the claimant quit for good cause connected with the work, a disqualification is not in order under Section 207.045 of the Act. The determination dated May 31, 2011, disqualifying the claimant under Section 207.045 of the Act beginning April 17, 2011, continuing until the claimant returns to work for six weeks or returns to work and earns six times her weekly benefit amount, must be reversed.

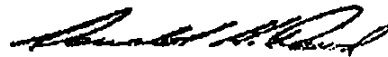
Section 212.006 of the Act provides that benefits paid to a claimant that are not in accordance with the final determination of an examiner or decision of an Appeal Tribunal, the Commission, or a reviewing court shall be refunded by the claimant to the Commission, or in the discretion of the Commission, deducted from future benefits payable to the claimant under this Act.

As the prior disqualification under Section 207.045 of the Act beginning April 17, 2011 is being reversed, the claimant was entitled to the payment of benefits she received in the amount of \$1,208.00 in benefits. Accordingly, the determination dated May 31, 2011, ruling that the claimant had been overpaid benefits in the amount of \$1,208.00 to which she was not entitled under Section 212.006 of the Act, must be reversed.

DECISION: The claimant's appeal filed June 14, 2011, is timely to the two determinations dated May 31, 2011.

The determination dated May 31, 2011, disqualifying the claimant beginning April 17, 2011, under Section 207.045 of the Act is reversed.

The determination dated May 31, 2011, establishing an overpayment under Section 212.006 of the Act, is reversed.




D. DOWD
Hearing Officer

1 - A

**Texas Workforce Commission
Notice of Telephone Hearing**

Date Mailed: AUGUST 1, 2011

Claimant: SSN: 456-73-1058 KATHLEEN M CRAIG 2505 DILLON DR GARLAND TX 75040-8843	Employer: NPI Account: 07-386349-0 TEAM GO FIGURE INC 301 N COUNTRY CLUB RD GARLAND TX 75040-6601
Hearing Date: THURSDAY, AUGUST 18, 2011	Hearing Start Time: 9:00 AM Central Daylight Time
 Call 1-800-252-3749 between 8:30 AM and 9:00 AM for your hearing.	Hearing Officer: D. DOWD

WHAT YOU MUST DO:

- **Send documents before the hearing.** You may have documents that are important to your case. Review the contents of this packet carefully. If any documents are missing, immediately fax or mail copies of those documents to the hearing officer and the other party.
- **Call in for your hearing.** This hearing will be held by telephone conference call. On the hearing date, call (800) 252-3749 within the 30 minutes before the hearing start time. Give the operator the phone number where you can be reached for the hearing. If you call from a pay phone, be sure it can receive incoming calls.

The hearing may be your only chance to tell what happened, present your documents, and ask questions of the witnesses. If you do not call (800) 252-3749 within the 30 minutes before the hearing start time, you may not be allowed to participate in the hearing. You will not have another opportunity to offer testimony unless you can establish good cause for why you did not call in as instructed. Employers who are not parties of interest (indicated above as NPI) do not have the right to request a new hearing, nor to appeal.

Are you ready for your hearing? Go to www.texasworkforce.org and select "Prepare for an appeal" to listen to a sample hearing and access other information and tools to help you prepare.

Appeal No: 1473879-1 Hearing: 1
Appeal filed by: Claimant
Appeal Date: 06/16/2011
Initial Claim Date: EXB001
Determination Date(s): 05/31/2011,
05/31/2011

D. DOWD, Hearing Officer
Texas Workforce Commission
PO BOX 6215
KATY TX 77491-6215
Hearing Officer (281) 347-1050
Fax No. (281) 347-1051

Equal Opportunity Program

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Additional copies of this hearing notice packet were mailed to:

Equal Opportunity Program

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Additional copies of this hearing notice packet were mailed to:

Equal Opportunity Program

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Issues in Your Hearing

(Additional issues, if any, are continued on Page 4.)

- **NOTE: THE ISSUE OF TIMELINESS OF APPEAL/PETITION TO REOPEN, OR TIMELINESS OF PROTEST TO THE INITIAL CLAIM, WILL BE AN ISSUE ADDRESSED AT THIS HEARING. THE HEARING OFFICER HAS THE DISCRETIONARY AUTHORITY TO TERMINATE THE HEARING AFTER THE CONCLUSION OF TESTIMONY ON THE TIMELINESS ISSUE IF THE HEARING OFFICER CONCLUDES THAT THE APPEAL, PETITION OR PROTEST IS CLEARLY NOT TIMELY. IF THIS IS DONE, NO TESTIMONY ON THE UNDERLYING ISSUES WILL BE TAKEN. ON THE OTHER HAND, IF THE HEARING OFFICER WISHES TO CONSIDER THE TIMELINESS ISSUE FURTHER OR IF, IN THE HEARING OFFICER'S JUDGEMENT, THE TIMELINESS OF THE APPEAL/PROTEST/PETITION HAS BEEN ESTABLISHED, FURTHER TESTIMONY ON THE UNDERLYING ISSUES WILL BE TAKEN.**
- **Timeliness of appeal. If the appellant is intending to allege that its appeal was delayed due to either late receipt or non-receipt of its copy of the determination appealed from, the appellant must present credible and persuasive evidence to establish such fact. If the appellant is intending to allege that its appeal was filed or mailed timely although not received by the TWC, credible and persuasive evidence of such fact must be corroborated by testimony of a disinterested party and/or physical evidence specifically linked to the appeal in question. If the appellant has a fax confirmation printout verifying the faxing of the appeal to the TWC, the appellant is instructed to forward a copy to the TWC hearing officer and the opposing party prior to the hearing.**
- **Whether the claimant was separated from the last work as a result of a discharge based on work-connected misconduct or a voluntary quit without work-connected good cause. If claimant's discharge occurred while absent from work due to illness, or if claimant resigned from work upon the advice of a physician, claimant should immediately mail or fax to the hearing officer and opposing party a physician's statement to medically verify claimant's physical condition. Testimony alone as to a physical condition may be insufficient**
- **Whether claimant received benefits to which claimant was not entitled.**

Equal Opportunity Program

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[Faint, mostly illegible text block consisting of several paragraphs]

Equal Opportunity Program

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Equal Opportunity Program

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Your Appeal Tribunal Hearing - Information and Instructions

Hearing packet contents

TWC mails a Notice of Hearing and copies of the information we have to all hearing participants. This packet should contain:

- The date that TWC notified the claimant's last employer that the claimant applied for unemployment benefits. (This information is included only if relevant to the claim.)
- Any protests to the claim.
- Any information that TWC received in response to the claimant's claim.
- Any fact-finding statements that TWC took while investigating issue(s) on appeal.
- The appeal itself (either a letter or appeal form).

Purpose of the hearing

The hearing is a fact-finding process that uses a question-and-answer method. Each side may present testimony, witnesses, and documents relevant to its case. The hearing officer will conduct a fair hearing, determine what is relevant, and make sure the record is complete. After the hearing, the officer will prepare a written decision based on the evidence. That decision will be mailed to you.

What happens at a hearing

Your Notice of Telephone Hearing lists what issues the hearing will cover. The hearing is recorded and all proceedings are taken under oath. After explaining the law and procedures, the hearing officer will ask questions of each side and its witnesses in turn.

After all testimony is taken from one side, the same procedure is repeated for the other side. Wait your turn, as you may not interrupt while another person is testifying. The hearing officer will tell you when it's your turn to ask questions. Ask relevant questions that have not already been asked and answered. If you don't have any questions, let the hearing officer know.

Evidence

Written evidence or documents such as letters, timecards, or doctors' statements may help your case. Photos, maps, or charts may also help explain what happened. Be ready to tell who prepared the evidence and how it helps your case. Send legible

copies of the documents to the hearing officer and the other side *before* the hearing. Do this even if you believe the Texas Workforce Commission or the other side already has them. If you don't, the documents may not be considered as evidence. Include only documents that relate directly to issues listed on the hearing notice.

Special equipment

If you need access to a telephone, fax machine, or speakerphone to present witness testimony or documents, TWC can set up the equipment at a Texas Workforce Center in your area. We will try to provide as much privacy for your hearing as possible. To request the equipment, please contact your local Texas Workforce Center as soon as you know the time and date of your hearing. For a directory of TWC Workforce Centers, please visit www.texasworkforce.org.

Relay Texas customers may communicate with TWC at 1-800-735-2989 (TDD) or 1-800-735-2988 (Voice).

Witnesses

You may present witnesses to support your case. Choose witnesses who actually saw or heard what happened. Notify them of the date and time of the hearing and arrange for them to be available at that time. When the hearing begins, give the hearing officer the telephone number where each witness can be reached for the hearing.

Sworn statements

A sworn written statement—called an affidavit—is sometimes used when a witness is unavailable to testify at the scheduled hearing time. An affidavit cannot be given as much weight as live witness testimony because the person who made the sworn statement is unavailable to answer questions. If an affidavit is used, it must be specific and must be sworn to before a notary public.

Do I need a lawyer?

The unemployment appeal process is designed for claimants and employers who don't have attorneys. The hearing officer will help you develop the facts, present your documents, and question the other

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side. However, an attorney or another person may represent you at your own expense.

Schedule conflicts

Hearing postponements are not ordinarily granted. However, if you have a justifiable conflict, notify the hearing officer as soon as possible *before* your hearing. If you don't, a later request to reopen your hearing may be denied.

Failure to appear and requests to reopen

If one side fails to participate in the hearing, the hearing officer may take testimony from those present and issue a decision based on that testimony. The side that failed to participate may request a reopening of the case, but must first establish good cause for the original nonappearance. If you want a hearing reopened, request it in writing no later than 14 days of the decision date.

Faxing your appeal or petition to reopen

If you fax your appeal or petition to reopen, TWC must receive it no later than 14 days from the date the decision was mailed. Keep your fax confirmation as proof of transmission. TWC will use the date we receive the fax to determine whether your appeal is timely.

Interpreters

The Appeal Tribunal will provide qualified interpreters. If you or any of your witnesses need an interpreter and you have not previously requested one, contact the hearing officer immediately.

Withdrawing an appeal

Only the person who filed the appeal may withdraw it. If you wish to withdraw your appeal, please

notify your hearing officer in writing or by telephone. The name, address, and phone number of the hearing officer are listed on the Notice of Telephone Hearing.

Time zones

If you call from a time zone other than Central Standard Time, be sure to properly calculate the time difference.

Subpoenas

A subpoena is a legal document issued by the hearing officer that orders an essential witness to testify or produce certain documents for the hearing. Before requesting a subpoena, ask the witness to voluntarily participate or furnish documents. If the witness refuses, call your hearing officer immediately. The subpoena process takes several days, so please allow plenty of time. The hearing officer determines if it is necessary to issue a subpoena.

Overpayment of benefits

An adverse decision may result in an overpayment of benefits. In the event you are overpaid benefits, you will be required to repay those benefits to the Texas Workforce Commission.

Decision

The Appeal Tribunal's written decision will resolve each issue, but it won't review in detail all testimony or documents given at the hearing. If you disagree with the decision, you may file a further appeal. The decision will explain how to file an appeal.

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Selected Sections of the Texas Unemployment Compensation Act

One or more of the following sections of the Texas Unemployment Compensation Act may be involved in your case, depending on the issues. Other sections of the Act not listed here may also be involved. If so, the hearing officer will explain them before your hearing.

Discharge for Misconduct. Section 207.044 of the Act states an individual is disqualified for benefits if the individual was discharged for misconduct connected with the individual's last work. Disqualification under this section continues until the claimant has returned to employment and worked for six weeks or earned wages equal to six times the individual's benefit amount.

Definition of Misconduct. Section 201.012 of the Act defines "misconduct" as the mismanagement of a position of employment by action or inaction, neglect that jeopardizes the life or property of another, intentional wrongdoing or malfeasance, intentional violation of a law, or violation of a policy or rule adopted to ensure the orderly work and safety of employees. The term "misconduct" does not include an act in response to an unconscionable act of an employer or superior.

Voluntarily Leaving Work. Section 207.045 of the Act states an individual who left the individual's last work voluntarily without good cause connected with the work is disqualified until the individual has returned to employment and worked for six weeks or earned wages equal to six times the individual's benefit amount, unless the individual left work to *move with a spouse* from the area where the individual worked. In that case, the claimant shall be disqualified for not less than six nor more than twenty-five benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

No individual may be disqualified because the individual left work because of a *medically verified illness* of the claimant or claimant's minor child, injury, disability, or pregnancy if the individual is available for work. A medically verified illness of a minor child prevents disqualification under this section only if reasonable alternative care was not available to the child and the employer refused to

allow the individual a reasonable amount of time off during the illness.

Military personnel who do not reenlist have not left work voluntarily without good cause connected with the work.

An individual who is *partially unemployed* and who resigns that employment to accept other employment that the individual believes will increase the individual's weekly wage is not disqualified for benefits under this section.

A *temporary employee* of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this subsection unless the temporary employee has been advised: (1) that the temporary employee is obligated to contact the temporary help firm on completion of assignments; and (2) that unemployment benefits may be denied if the temporary employee fails to do so.

Benefit Eligibility Conditions. Section 207.021 of the Act states an unemployed individual is eligible to receive benefits for a benefit period if the individual:

- (1) has registered for work at an employment office and has continued to report to the employment office as required by rules adopted by the Commission;
- (2) has made claim for benefits;
- (3) is able to work;
- (4) is available for work;
- (5) for the individual's base period, has benefit wage credits: (A) in at least two calendar quarters; and (B) in an amount not less than 37 times the individual's benefit amount;
- (6) after the beginning date of the individual's most recent prior benefit year, if applicable, earned wages in an amount equal to not less than six times the individual's benefit amount;

Equal Opportunity Program

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(7) has been totally or partially unemployed for a waiting period of at least seven consecutive days; and

(8) participates in reemployment services such as a job search assistance service, if the individual has been determined, according to a profiling system established by the Commission, to be likely to exhaust eligibility for regular benefits and to need those services to obtain new employment, unless: (A) the individual has completed participation in such service; or (B) there is reasonable cause, as determined by the Commission, for the individual's failure to participate in those services.

Filing; Information Notices. Section 208.001 of the Act states, in part, that claims for benefits shall be made in accordance with rules adopted by the Commission. Each employer shall post and maintain, in places accessible to employees, printed notices giving general information about filing a claim for unemployment benefits.

Exclusions from Chargebacks. Section 204.022 of the Act states in substance, that benefits paid to a claimant shall not be charged to an employer's account if the claimant's last separation from the employer's employment prior to the beginning date of the claimant's benefit year:

- 1) was required by a federal statute;
- 2) was required by a state statute or municipal ordinance;
- 3) would have disqualified the employee under Section 207.044, 207.045, or 207.053 if the employment had been the employee's last work;
- 4) imposes a disqualification under Section 207.044, 207.045, or 207.053;
- 5) was caused by a medically verifiable illness of the employee or the employee's minor child;
- 6) was based on a natural disaster that results in a disaster declaration by the President of the United States;
- 7) was caused by a natural disaster, fire, flood, or explosion that causes an employee to be separated from his or her employer and thereby incapable of performing work;
- 8) was based on a disaster that results in a disaster declaration by the Governor;
- 9) resulted in the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;

10) was caused by the employee being called to active military service on or after January 1, 2003;

11) resulted from the employee leaving the workplace to protect the employee from family violence or stalking as evidenced by: (A) a protective order; (B) police records; and (C) medical documents;

12) resulted from a move from the employment area that: (A) was made with the employee's spouse who is a member of the U.S. military; (B) resulted from the spouse's permanent change of station longer than 120 days or a tour of duty longer than one year; or

13) was caused by the employee being unable to perform work as a result of a disability for which the employee is receiving disability insurance benefits under 42 U.S.C. Section 423.

Failure to Apply for, Accept, or Return to Work. Section 207.047 of the Act states an individual is disqualified for benefits if during the individual's current benefit year the individual failed, without good cause, to apply for available, suitable work when directed to do so by the Commission, or to accept suitable work offered to the individual, or to return to the individual's customary self-employment (if any) when directed to do so by the Commission. Disqualification continues until the individual has returned to employment and worked for six weeks, or earned wages equal to six times the individual's benefit amount.

Recovery of Benefits Paid. Section 212.006 of the Act states that benefits paid to a claimant that are not in accordance with the final determination of an examiner or decision of an Appeal Tribunal, the Commission, or a reviewing court shall be refunded by the claimant to the Commission, or in the discretion of the Commission, deducted from future benefits payable to the claimant under this Act.

Determination Final; Appeal. Section 212.053 of the Act states, in part, an examiner's determination is final for all purposes unless the claimant or the person or branch for which the claimant last worked, and to whom a copy of the determination is mailed files an appeal from the determination not later than the 14th calendar day after that date on which the copy of the determination is mailed to the last known address of the claimant, person, or branch as shown by Commission records.

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Page: 1

Benefits - Non-Monetary Determinations
Fact Finding

SSN: 456-73-1058 KATHLEEN M CRAIG Case Nbr: 8
Issue Nbr: 1 Type: QUIT Reason: QUIT-INTAKE STATEMENT
Stmt Nbr: 1 of: 3 Stmt of: Claimant Taken: 05-03-2011 02:08:54 PM

Name: KATHLEEN M CRAIG Title:
Phone Stmt: Y Claim ID: EXB001 Claim Dt: 04-23-2011 Rebuttal: N Footnote: N

Why did you quit?
I QUIT BECAUSE THEY WANTED ME ETO DO ILLEGAL THINGS, SUCH
AS MARKING OFF THE HRS OF PEOPLE THAT WORKED OVERTIME, THEIR WAS AN
ILLEGAL
IMMIGANT AND WE HAD TO WRITE HIS CHECKS IN SOMEONE ELSE'S NAME.
Who did you tell you were quitting (Name & Title)?
CHERI WHITESIDE/BOOKKEEPER
How much notice did you give?
NONE
Were there any options available to you to correct the situation before quitting?
N
Are you able to work and available for work at this time?
Y

END

*** No footnote entered ***

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Benefits - Non-Monetary Determinations
Fact Finding

SSN: 456-73-1058 KATHLEEN M CRAIG Case Nbr: 8
Issue Nbr: 1 Type: QUIT Reason: DISSATISFIED WITH WORKING CONDITIONS
Stmt Nbr: 2 of: 3 Stmt of: Employer Taken: 05-11-2011 08:13:13 AM

Name: VM Title: EMPLOYER
Phone Stmt: Y Claim ID: EXB001 Claim Dt: 04-23-2011 Rebuttal: N Footnote: Y

*** No Question Set Entered ***

END

DATE AND TIME: 051111 8:13AM LEFT MESSAGE FOR: EMPLOYER
LEFT MESSAGE ON OR WITH: VM ADVISED CALLING FOR
INFORMATION ON UNEMPLOYMENT CLAIM. DEADLINE TO RESPOND: 051811
GAVE CONSEQUENCES FOR FAILURE TO RESPOND BY DEADLINE. COMMENTS:
BTQ CALL

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**Benefits - Non-Monetary Determinations
Fact Finding**

SSN: 456-73-1058 **KATHLEEN M CRAIG** Case Nbr: 8
Issue Nbr: 1 Type: **QUIT** Reason: **DISSATISFIED WITH WORKING CONDITIONS**
Stmt Nbr: 3 of: 3 Stmt of: Claimant Taken: 05-24-2011 04:05:55 PM

Name: **KATHLEEN M CRAIG** Title:
Phone Stmt: Y Claim ID: **EXB001** Claim Dt: **04-23-2011** Rebuttal: N Footnote: Y

*** No Question Set Entered ***

END

DATE AND TIME: 052411 4:06PM LEFT MESSAGE FOR: KATHLEEN
CRAIG LEFT MESSAGE ON OR WITH: VM
ADVISED CALLING FOR INFORMATION ON UNEMPLOYMENT CLAIM. DEADLINE
TO RESPOND: 052611 4:30PM GAVE CONSEQUENCES FOR FAILURE TO
RESPOND BY DEADLINE. COMMENTS:

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Benefits - Non-Monetary Determinations
Fact Finding

SSN: 456-73-1058 KATHLEEN M CRAIG Case Nbr: 8
Issue Nbr: 1 Type: QUIT Reason: DISSATISFIED WITH WORKING CONDITIONS
Smtl Nbr: 3 of: 3 Smt of: Claimant Taken: 05-24-2011 04:05:55 PM

Name: KATHLEEN M CRAIG Title:
Phone Smt: Y Claim ID: EXB001 Claim Dt: 04-23-2011 Rebuttal: N Footnote: Y

*** No Question Set Entered ***

END

DATE AND TIME: 052411 4:06PM LEFT MESSAGE FOR: KATHLEEN
CRAIG LEFT MESSAGE ON OR WITH: VM
ADVISED CALLING FOR INFORMATION ON UNEMPLOYMENT CLAIM. DEADLINE
TO RESPOND: 052611 4:30PM GAVE CONSEQUENCES FOR FAILURE TO
RESPOND BY DEADLINE. COMMENTS:

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Employer Response to Notice of Application for UI Benefits

SSN: 456-73-1058 KATHLEEN M CRAIG
Claim Date: 02-20-2011 Claim Type: IC PGM: TUC Claim ID: EXB001

Employer: 11-509967-1 CD HENDERSON
CONSTRUCTION GROUP LLC
Correct Last Employer: Y
Monetarily Eligible: Y
EDI:

Notice Sent: 09-14-2009
Due: 09-28-2009
Claimant Separation Reason: PERMANENT LAYOFF

Responded: 09-24-2009
Response Type: Confirmation #:
Employer Separation Reason: PERMANENT LAYOFF
TWC Action: ROUTE ONLY
Current Investigator:

Employment Information:

Date Range Worked: Thru
Gross Wages Earned:

Wages In Lieu Of Notice:
On Temporary Layoff:
Paid Vacation Days:

Paid Thru:
Recall Date:
Paid Thru:

Responder's Name:
Responder's Title:
Contact Person:

TWC Account:
Phone:
Phone:

----- Additional Information Regarding Separation -----

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Employer Response to Notice of Application for UI Benefits

SSN: 456-73-1058 **KATHLEEN M CRAIG**
Claim Date: 04-23-2011 Claim Type: CC PGM: TUC Claim ID: EXD001
Employer: 07-386349-0 **TEAM GO FIGURE INC**
Correct Last Employer: Y
Monetarily Eligible: Y
EDI:
Notice Sent: 05-04-2011
Due: 05-18-2011
Claimant Separation Reason: QUIT
Responded:
Response Type: Confirmation #:
Employer Separation Reason: No Desc Found
TWC Action: No Desc Found
Current Investigator:

Employment Information

Date Range Worked: Thru
Gross Wages Earned:

Wages In Lieu Of Notice:	Paid Thru:
On Temporary Layoff:	Recall Date:
Paid Vacation Days:	Paid Thru:

Responder's Name:	TWC Account:
Responder's Title:	Phone:
Contact Person:	Phone:

----- Additional Information Regarding Separation -----

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Employer Response to Notice of Application for UI Benefits

SSN: 456-73-1058 KATHLEEN M CRAIG
Claim Date: 04-23-2011 Claim Type: CC PGM: TUC Claim ID: EXB001

Employer: 07-386349-0 TEAM GO FIGURE INC
Correct Last Employer: Y
Monetarily Eligible: Y
EDI:

Notice Sent: 05-04-2011
Due: 05-18-2011
Claimant Separation Reason: QUIT

Responded:
Response Type: Confirmation #:
Employer Separation Reason: No Desc Found
TWC Action: No Desc Found
Current Investigator:

Employment Information

Date Range Worked: Thru
Gross Wages Earned:

Wages In Lieu Of Notice:	Paid Thru:
On Temporary Layoff:	Recall Date:
Paid Vacation Days:	Paid Thru:

Responder's Name:	TWC Account:
Responder's Title:	Phone:
Contact Person:	Phone:

----- Additional Information Regarding Separation -----

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Issue Decision Log

SSN: 456-73-1058 KATHLEEN M CRAIG
Case Nbr: 8
Issue Nbr: 1 of: 1 Type: QUIT Reason: DISSATISFIED WITH WORKING
CONDITIONS

Program: TUC Claim ID: EXB001 Claim Type: CC Claim Dt: 04-23-2011

LEU: 07-386349-0 TEAM GO FIGURE INC
Late LEU Response: Interested Party: N Charged: No

Other Employer:

Decision Date:	05-27-2011	Weeks Disqualified:
Mailed Date:	05-31-2011	Deductible Amount:
Begin Date:	04-17-2011	State:
End Date:		Incident Date:

Claimant Failed to Respond: N

Qualified: N

Rationale: NPD-GOOD CAUSE WAS UNABLE TO BE ESTABLISHED W/INFO PROVIDED

Conclusion: QUIT-JOB ABANDONMENT-DISQUALIFIED

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Issue Decision Log

SSN: 456-73-1058 **KATHLEEN M CRAIG**
Case Nbr: 9
Issue Nbr: 1 of: 1 Type: **OVERPAYMENT** Reason: **OVERPAYMENT**
Program: **TUC** Claim ID: **EXB001** Claim Type: **IC** Claim Dt: **02-20-2011**
LEU: **11-509967-1** **CD HENDERSON CONSTRUCTION GROUP LLC**
Late LEU Response: Interested Party: **N** Charged: **No**
Other Employer:
Decision Date: **05-30-2011** Weeks Disqualified:
Mailed Date: **05-31-2011** Deductible Amount:
Begin Date: **02-20-2011** State:
End Date: Incident Date:
Claimant Failed to Respond: **N**
Eligible: **Y**
Rationale: **NO SOURCE CODE**
Conclusion: **OVERPAYMENT**

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Issue Decision Log

SSN: 456-73-1058 KATHLEEN M CRAIG
Case Nbr: 9
Issue Nbr: 1 of: 1 Type: OVERPAYMENT Reason: OVERPAYMENT
Program: TUC Claim ID: EXB001 Claim Type: IC Claim Dt: 02-20-2011
LEU: 11-509967-1 CD HENDERSON CONSTRUCTION GROUP LLC
Late LEU Response: Interested Party: N Charged: No
Other Employer:
Decision Date: 05-30-2011 Weeks Disqualified:
Mailed Date: 05-31-2011 Deductible Amount:
Begin Date: 02-20-2011 State:
End Date: Incident Date:
Claimant Failed to Respond: N
Eligible: Y
Rationale: NO SOURCE CODE
Conclusion: OVERPAYMENT

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1 Total Pages (incl. cover) Request Date: 07/14/2011

SSN: 456-73-1058

Case Number: 1473879

To: TWC Appeals

Fax: 5124751135

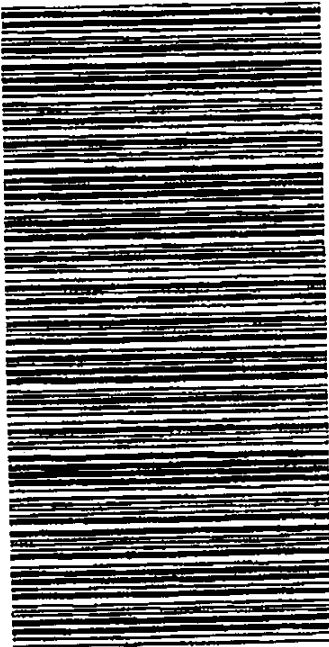
From: NORTH TEXAS TELE-CENTER 6475

Claimant: CRAIG, KATHLEEN M.

Claim ID: EXB001 (IC 9-6-9)

Case-Issue:

8/1, QT



- ☒ No Records Found *NPD*
- ☐ Unable to Locate Paper Records

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June 13, 2011

1473879

EXB

Appeal Tribunal
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0002

Re: Claim ID EXB001
Claim Date: 4-23-11
Claimant: Kathleen M. Craig
Claimants SS#: 456-73-1058
Date TWC Mailed Decision: May 31, 2011

REC'D APPEALS
2011 JUN 20 AM 11:23

Dear Sir/Madam

I am writing to APPEAL the decision on payment of unemployment benefits mailed to me on May 31, 2011. I disagree with the decision that was made against me for not qualifying for unemployment. I believe that the information that I am submitting will substantiate my reason and will become a qualifying reason of work separation.

Team Go Figure has stated that I abandoned my last work by walking off the job and/or failing to report for work while work was still available for me. I will just start with the sentence above. First of all, I contacted Cheri Whiteside, the current full charge bookkeeper at Team Go Figure, at approximately 5:45pm on Friday, April 22, 2011 after I left work at approximately 5:35pm. I left her a message for her to call me; she returned my call approximately 6pm that same evening. I informed her that I was resigning and that I left my resignation letter on her desk (a copy is attached to this appeal) and could not work with Team Go Figure anymore due to illegal activity and being instructed to break the US Department of Labor, Wage & Hour Division Laws & Regulations. I wish that I was able to speak with an Owner or a Manager, but everyone had left early for the Easter Holiday, even my direct supervisor and the person who was training me, Cheri Whiteside, had left early for the day. An additional copy of my resignation letter was also mailed by Certified Mail Article #7002 2410 0000 6188 2090 that was delivered and signed for on April 25, 2011. That is not abandonment or failing to report to work, that is notifying the employer that I do not wish to continue to break the payroll laws and do not wish to continue my employment with a company who does not treat their employees in regard to the US DOL Wage & Hour Division Laws & Regulations.

During my employment at Team Go Figure, I was instructed to take deposits to the bank. I went to the bank sometimes when I left to lunch and sometimes when I left to go home for the day. When I was approached and asked why I was gone for more than my designated 30 minute lunch. My answer was, I clocked out at a certain time, drove to the bank and my "lunch" did not OFFICIALLY start until I completed my task at the bank. I told her to please see the bank deposit time for my actual time that my lunch started and that I would like my time clock stamp out for lunch be edited or changed to the time it stated on the bank deposit receipt so that it would show that I was only taking a 30 minute lunch as instructed. I was told by Cheri Whiteside that that time did not count as on the clock for work and from the time I leave the building for lunch, I needed to return 30 minutes later. I then asked if I could be reimbursed for the mileage that I used to drive to the bank or reimbursed for my time when making

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June 13, 2011

1473879

EXB

Appeal Tribunal
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0002

Re: Claim ID EX8001
Claim Date: 4-23-11
Claimant: Kathleen M. Craig
Claimants SS#: 456-73-1058
Date TWC Mailed Decision: May 31, 2011

REC'D APPEALS
2011 JUN 20 AM 11:23

Dear Sir/Madam

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bank deposits. She told me that the owner, Scott Eskridge, did not pay for time at the bank nor did he pay for mileage at the IRS rate of \$0.51 cents per mile driven for business errands. I was cheated out of my time while doing company business errands and I was cheated out of my mileage payment due to me for doing company errands at the IRS 2011 Mileage rate of \$0.51 per mile driven.

During my employment at Team Go Figure as a part of my training from Cheri Whiteside, I was told that the United States Immigration Custom & Enforcement Department (ICE) had already visited Team Go Figure 2 times in the past to check for illegal aliens and that I must always have my I-9's up to date and that they were to be filed alphabetically.

Now, you will find attached to this Appeal many copies of items that substantiate my decision to resign from my position as to not incriminate myself by breaking federal & state laws. Please see the following items:

1. United States Postal Service Domestic Return Receipt of Certified Mail (Front & Back) Article #7002 2410 0000 6188 2090. This item has been signed and received on 4/25/11 by Cheri Whiteside, who was the Full Charge Bookkeeper at the time of my resignation. She was also the person who was training me to take her position.
2. A copy of my Resignation Letter describing the reason in which I left Team Go Figure's employment
3. A copy of two check stubs #14637 for Jose Elias Berumen for \$1,280.00 & #14635 for Hue L. Long for \$641.58
4. A copy of a 9 page Report of Hours Worked for All Departments from 4/6/11 - 4/19/11
5. A copy of an email from Nicole Allen to Cheri Whiteside, both employees of Team Go Figure, showing an additional hours that were put in at home that were not listed on the print out from the Time Clock Report from 4/6/11 - 4/19/11 that needed to be added to her time.

Now I would like to describe these items in detail so that you can see a pattern that Team Go Figure continually breaks federal and state payroll laws and so that you can see that these items substantiate my decision to resign based on the fact that I am an HONEST person and that I have INTEGRITY.

Please see Item #4 on page 3 for employee ID Card #48 Anita Domínguez, she had 80.13 hours for her two week period and I was told to mark off any hours over 80 because TGF only pays employees 80 hours per pay period.

Please see item #4 on page 4 for employee ID Card #50 Israr Fatima, she had 80.25 hours for her time period and again I was instructed to mark out any hours over 80 and only pay employees for 80 hours.

Please see Item #4 on page 4-5 for employee ID Card #72 Keleigh B. Kelley, she had a total of 80.50 hours after corrections had been made to her time, she was also only paid for 80 hours and was very upset when she received her check on Friday, April 22, 2011. Not only does she have to leave work for fittings for merchandise that Team Go Figure sells and go to high schools all over the DFW Metroplex on her own gas and never received any mileage pay as stated in the IRS 2011 Standard Mileage Rates for all employees driving while on employer time at a rate of \$0.51 per mile driven, she does not get her overtime pay rate or even paid straight time for any hours over 80. She was very upset and came to me & Cheri Whiteside and told us so. She was told that Scott Eskridge & Ken Kenworthy, the owner & production manager, instructed Cheri Whiteside and myself that NO OVERTIME will be paid and NO MILEAGE will be paid.

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Please see item #4 on page 5 for ID Card #34 Jose Lanzo, he had a total of 80.19 hours but was only paid for 80 hours. This is the same person as the check stub in item #3 for Jose Elias Berumen Ck#14637. I was instructed by Cheri Whiteside, that his name wasn't the same as entered on the time clock station. I was also told that they believe he is an illegal alien and that is why the check was written and a different name was used. This is where I was concerned about the 2 prior trips that US Immigration Custom & Enforcement (ICE) had already been to Team Go Figure to make sure my I-9's were up to date and in order. I was worried that if they knew that Jose Lanzo/Jose Elias Berumen was an illegal alien, that I did not want to be involved in employing or involved in an I-9 that I knew was not legally obtained by the identification of the correct person.

Please see item #4 on page 5 for ID Card #35 Young Le Tran, she had 81.68 hours but was only paid for 80 hours. I was instructed by Cheri Whiteside to check with Ken Kenworthy to ask him if she can be paid her overtime rate for her additional hours over 80. I went to him and asked him and he instructed me to mark them off and only pay her for 80 hours.

Please see item #4 on page 5 for ID Card #70 Antwan Lee, his time was completely marked off because of the following: As of Monday 4/18/11 after working almost a full day at the office, Antwan had to go to a fitting and his hours would definitely put him over the 80 hour mark with still 1 more day remaining in the pay period. He was still on his probation period of a new hire and Scott Eskridge called him and Antwan was enticed to go on Salary to prevent Team Go Figure from paying overtime pay and to be able to get more hours out of their employees without paying future overtime that would accrue. As per the US DOL Wage & Hour Division Laws and Regulations, an employer can only require 40 hours per wk out of their employees whether they are Salaried or Hourly employees without paying the time and a half rate. Also per the US DOL, salaried employees are in a managerial position and manage other employees. Antwan was not a manager nor did he manage other employees or salesmen, he was their equal, therefore should have remained an hourly employee.

Please see item #4 on page 7 for ID Card #26 Anh Tran, she had 80.03 hours for her time period and again I was instructed to mark out any hours over 80 and only pay employees for 80 hours.

Please see item #4 on page 8 for ID Card #28 Noi Tran, she had 80.52 hours for her pay period but was only paid for 80 hours, again, I was instructed to mark off any excess hours over 80 in that pay period. Once again, not only were the employees not paid for all of their hours, even straight time or at their overtime rate, they were only paid the maximum hours for the pay period without reaching the overtime rate.

Please see item #4 on page 8 for ID Card #66 Hue L. Uong, she had 80.17 hours for her pay period but was only paid 80 hours, again marking off anything above 80 hours. Please refer to item #3, check #14635, showing and proving my case of that person only being paid for 80 hours of work, when she clearly worked more than 80 hours during the pay period 4/6/11 – 4/19/11.

Please see item #4 on page 8 & continued on page 9 for ID Card #31 Ana Varela, she had 80.03 hours, but was only paid for 80 hours. This is a small amount of hours over the 80 hours in a pay period, but it is still something.

There were several reports that had an opportunity to look at from previous pay periods that with all those amounts of all those pay periods total a lot of overtime hours that they were not paid not only just

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Please see Item #4 on page 5 for ID Card #34 Jose Lanzo, he had a total of 80.19 hours but was only paid for 80 hours. This is the same person as the check stub in Item #3 for Jose Elias Berumen Ck#14637. I was instructed by Cheri Whiteside, that his name wasn't the same as entered on the time clock station. I was also told that they believe he is an illegal alien and that is why the check was written and a different name was used. This is where I was concerned about the 2 prior trips that US Immigration Custom & Enforcement (ICE) had already been to Team Go Figure to make sure my I-9's were up to date and in order. I was worried that if they knew that Jose Lanzo/Jose Elias Berumen was an illegal alien, that I did not want to be involved in employing or involved in an I-9 that I knew was not legally obtained by the identification of the correct person.

Please see Item #4 on page 5 for ID Card #35 Toung Le Tran, she had 81.68 hours but was only paid for 80 hours. I was instructed by Cheri Whiteside to check with Ken Kenworthy to ask him if she can be paid her overtime rate for her additional hours over 80. I went to him and asked him and he instructed me to mark them off and only pay her for 80 hours.

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There were several reports that had an opportunity to look at from previous pay periods that with all those amounts of all those pay periods total a lot of overtime hours that they were not paid not only just

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straight time but not even at their overtime rate which is against the US DOL Wage & Hour Division Laws & Regulations. But I did not make copies of those reports because I did not complete those payrolls and had nothing to do with those time periods. Cheri Whiteside completed those payrolls and she would be the one who would be responsible for following directions from the owner, Scott Eskridge to mark off any hours or minutes above 80 hours.

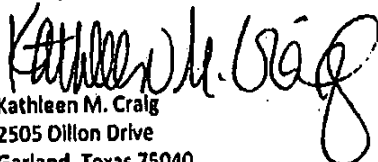
Now after you take a closer look at all the items that I have enclosed with this appeal, item #3 & item #4 substantiate my "Letter of Resignation" (item #2) stating that "I cannot sign my name to a payroll report of any kind that might not comply with the United States Department of Labor, Wage & Hour Division Laws & Regulations".

I was being trained by Cheri Whiteside which was the current Full Charge Bookkeeper to take over her position and become the Full Charge Bookkeeper as of June 1, 2011. However, since part of her job would be to submit the Texas State Unemployment Quarterly Report for Team Go Figure, the Federal Unemployment Quarterly Report (941 & End of year 940), print employee W-2's, print the company W-3 Transmittal Report for Team Go Figure, I would have to sign my name to those reports. After working for more than 20 years in the Payroll field and being very familiar with US DOL Laws & Regulations and other Texas State Laws regarding payroll, I would have had to sign reports that did not comply with US DOL Wage & Hour Division Laws & Regulations and other Texas State Payroll Laws and I was not comfortable signing my name to illegal reports. As a Bookkeeper, knowing those laws, I would be breaking the law myself if I attached my name to those reports, I was not willing to break the law for employment. My conscious would not allow me to cheat people out of money and still hand out their paychecks looking them in the eyes knowing that I was instructed to cheat them out of money that they were owed by the owner, Scott Eskridge and my direct supervisor, Cheri Whiteside & the Production Manager, Ken Kenworthy.

Please submit my letter and evidence as my objection and appeal to the decision of not being approved for unemployment benefits.

If you have any further questions or need further explanation of the items that I have submitted for substantial proof that I was being instructed by Team Go Figure to break the Laws and Regulations of the United States Department of Labor, Wage & Hour Division.

Thank you,



Kathleen M. Craig
2505 Oillon Drive
Garland, Texas 75040
972-675-6896 hm
214-552-6626 mb

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UNITED STATES POSTAL SERVICE




First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

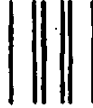
Kathleen M Craig
7505 Dillon Drive
Garland, TX 75040



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>8/25</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Team Go Figure 301 N. Country Club Rd. Garland, TX 75040</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7002 2430 0000 6168 2090</p>
PS Form 3811, August 2001	Domestic Return Receipt 102595-02-M-1035

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UNITED STATES POSTAL SERVICE

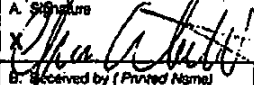


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Kathleen M Craig
7515 Dillon Drive
Garland, TX 75040



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>8/25</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Team Go Figure 301 N. Country Club Rd. Garland, TX 75040</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7002 2410 0000 6168 2090</p>
PS Form 3811, August 2001	Domestic Return Receipt 102595-02-01-1035

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*Kathleen M. Craig
2505 Dillon Drive
Garland, TX 75040*

April 22, 2011

Team Go Figure
310 N. Country Club Road
Garland, Texas 75040

Attn: Scott Eskridge & Ken Kenworthy

Dear Sirs,

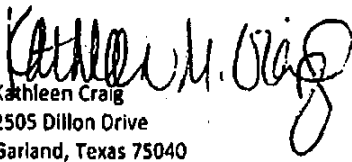
As of April 22, 2011, I respectfully resign the full charge bookkeeper position that was offered to me on April 8, 2011, that I have been in training for since April 12, 2011.

I am resigning for the following reason:

- I cannot sign my name to a payroll report of any kind that might not comply with the United States Department of Labor, Wage & Hour Division Laws and Regulations.

Please send my final check for the pay period April 20 – May 3, 2011, that I worked from April 20 – April 22, 2011 to 2505 Dillon Drive, Garland, Texas 75040.

Thank you,


Kathleen Craig
2505 Dillon Drive
Garland, Texas 75040

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 Team Go Figure
 Report Of Hours Worked - All Departments
 Report from 4/6/2011 to 4/19/2011 - Worked Hours
 All Employees

Contract
 Labor
 hrs-

Date: 4/20/2011
 Time: 9:19:30 AM

* Added from Employee Attendance
 * Added Punch
 * Edited Punch
 * Late Arrival

Day	Date	In	Out	Reg	OT	DT
-----	------	----	-----	-----	----	----

Employee: Agustini De Velasquez Laura

WED	4/6/2011	6:05 AM	11:17 AM	5.20	0.00	0.00
WED	4/6/2011	11:57 AM	3:07 PM	3.17	0.00	0.00
THU	4/7/2011	5:56 AM	11:19 AM	5.38	0.00	0.00
THU	4/7/2011	12:04 PM	2:41 PM	2.62	0.00	0.00
FRI	4/8/2011	5:58 AM	11:07 AM	5.15	0.00	0.00
FRI	4/8/2011	11:48 AM	2:42 PM	2.90	0.00	0.00
MON	4/11/2011	6:10 AM	11:19 AM	5.15	0.00	0.00
MON	4/11/2011	12:03 PM	2:50 PM	2.78	0.00	0.00
TUE	4/12/2011	6:03 AM	11:11 AM	5.13	0.00	0.00
TUE	4/12/2011	11:49 AM	2:37 PM	2.80	0.00	0.00
WED	4/13/2011	5:58 AM	11:08 AM	5.17	0.00	0.00
WED	4/13/2011	11:45 AM	2:42 PM	2.95	0.00	0.00
THU	4/14/2011	6:11 AM	11:15 AM	5.07	0.00	0.00
THU	4/14/2011	11:55 AM	2:38 PM	2.72	0.00	0.00
FRI	4/15/2011	6:16 AM	11:15 AM	4.98	0.00	0.00
FRI	4/15/2011	11:53 AM	2:40 PM	2.78	0.00	0.00
MON	4/18/2011	6:07 AM	11:11 AM	5.07	0.00	0.00
MON	4/18/2011	11:52 AM	2:38 PM	2.77	0.00	0.00
TUE	4/19/2011	6:08 AM	11:19 AM	5.18	0.00	0.00
TUE	4/19/2011	12:03 PM	2:32 PM	2.48	0.00	0.00

IDCard: 58 Employee Totals: 79.45 0.00 0.00

79.45

Employee: Alexander C Crystal

WED	4/6/2011	7:58 AM	4:46 PM	8.30	0.00	0.00
THU	4/7/2011	9:10 AM	12:57 PM	3.78	0.00	0.00
THU	4/7/2011	1:47 PM	5:26 PM	3.65	0.00	0.00
FRI	4/8/2011	9:07 AM	5:34 PM	7.95	0.00	0.00
MON	4/11/2011	8:15 AM	* 5:28 PM	8.72	0.00	0.00
TUE	4/12/2011	7:54 AM	5:20 PM	8.93	0.00	0.00
WED	4/13/2011	8:13 AM	5:25 PM	* 8.70	0.00	0.00
THU	4/14/2011	8:00 AM	5:29 PM	8.98	0.00	0.00
FRI	4/15/2011	9:08 AM	5:30 PM	7.87	0.00	0.00
MON	4/18/2011	8:07 AM	5:27 PM	8.83	0.00	0.00
TUE	4/19/2011	12:04 PM	1:00 PM		0.00	0.00

IDCard: 0068 Employee Totals: 75.72 0.00 0.00

75.72

Employee: Allen Y Nicole

WED	4/6/2011	8:30 AM	* 1:58 PM	* 5.47	0.00	0.00
THU	4/7/2011	8:26 AM	* 2:00 PM	* 5.57	0.00	0.00
THU	4/7/2011	4:30 PM	* 7:45 PM	* 3.25	0.00	0.00
FRI	4/8/2011	7:36 AM	* 3:30 PM	* 7.90	0.00	0.00
MON	4/11/2011	8:06 AM	10:55 AM	* 2.82	0.00	0.00
MON	4/11/2011	2:00 PM	* 8:30 PM	* 6.50	0.00	0.00
TUE	4/12/2011	8:28 AM	1:59 PM	5.52	0.00	0.00
WED	4/13/2011	8:59 AM	2:00 PM	5.02	0.00	0.00
THU	4/14/2011	8:28 AM	1:05 PM	4.62	0.00	0.00
THU	4/14/2011	1:13 PM	2:01 PM	0.80	0.00	0.00
FRI	4/15/2011	8:21 AM	1:15 PM	* 4.90	0.00	0.00

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Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date:	4/20/2011
Time:	9:19:53 AM

- Added from Employee Attendance
- Added Punch
- Edited Punch
- Late Arrival

Day	Date	In	Out	Reg	OT	DT
SUN	4/17/2011	2:30 PM	* 6:30 PM	* 4.00	0.00	0.00
MON	4/18/2011	8:45 AM	* 2:04 PM	* 5.32	0.00	0.00
MON	4/18/2011	9:30 PM	* 10:30 PM	* 1.00	0.00	0.00
TUE	4/19/2011	8:26 AM	1:58 PM	5.53	0.00	0.00
IDCard: 69	Employee Totals:		68.20	0.00	0.00	

Trinity 4-7:40 PM ✓ *+ Email for time* 6.32
* 73.18

Employee: Araiza Ahida

WED	4/6/2011	8:33 AM	1:56 PM	* 4.88	0.00	0.00
THU	4/7/2011	8:31 AM	4:28 PM	7.45	0.00	0.00
FRI	4/8/2011	8:38 AM	4:30 PM	7.37	0.00	0.00
MON	4/11/2011	8:40 AM	4:31 PM	7.35	0.00	0.00
TUE	4/12/2011	9:07 AM	4:29 PM	6.87	0.00	0.00
WED	4/13/2011	8:32 AM	4:31 PM	7.48	0.00	0.00
THU	4/14/2011	8:40 AM	4:28 PM	7.30	0.00	0.00
FRI	4/15/2011	8:38 AM	4:29 PM	7.35	0.00	0.00
MON	4/18/2011	8:27 AM	4:30 PM	7.55	0.00	0.00
TUE	4/19/2011	8:30 AM	4:30 PM	7.50	0.00	0.00
IDCard: 74	Employee Totals:		71.10	0.00	0.00	

Employee: Buchanan G Doidre

WED	4/6/2011	8:58 AM	5:32 PM	8.07	0.00	0.00
THU	4/7/2011	9:02 AM	5:38 PM	8.10	0.00	0.00
FRI	4/8/2011	9:03 AM	12:24 PM	3.35	0.00	0.00
FRI	4/8/2011	12:56 PM	5:31 PM	4.58	0.00	0.00
MON	4/11/2011	9:05 AM	5:52 PM	8.28	0.00	0.00
TUE	4/12/2011	9:01 AM	5:48 PM	8.28	0.00	0.00
WED	4/13/2011	9:06 AM	5:05 PM	7.48	0.00	0.00
THU	4/14/2011	9:04 AM	5:26 PM	7.87	0.00	0.00
FRI	4/15/2011	8:58 AM	12:40 PM	3.70	0.00	0.00
FRI	4/15/2011	1:29 PM	5:37 PM	4.13	0.00	0.00
MON	4/18/2011	9:02 AM	5:32 PM	8.00	0.00	0.00
IDCard: 67	Employee Totals:		71.85	0.00	0.00	

Employee: Cash Nina

WED	4/6/2011	9:47 AM	* 5:08 PM	6.85	0.00	0.00
THU	4/7/2011	9:32 AM	4:06 PM	6.07	0.00	0.00
FRI	4/8/2011	9:11 AM	1:38 PM	4.45	0.00	0.00
MON	4/11/2011	2:20 PM	5:23 PM	3.05	0.00	0.00
TUE	4/12/2011	9:19 AM	2:11 PM	4.87	0.00	0.00
TUE	4/12/2011	3:04 PM	5:24 PM	2.33	0.00	0.00
WED	4/13/2011	9:26 AM	5:31 PM	7.58	0.00	0.00
THU	4/14/2011	9:16 AM	5:26 PM	7.67	0.00	0.00
FRI	4/15/2011	9:16 AM	4:58 PM	7.20	0.00	0.00
MON	4/18/2011	9:15 AM	5:43 PM	7.97	0.00	0.00
TUE	4/19/2011	9:18 AM	3:14 PM	5.43	0.00	0.00
TUE	4/19/2011	4:01 PM	5:42 PM	1.68	0.00	0.00
IDCard: 51	Employee Totals:		65.15	0.00	0.00	

Employee: Craig Kathleen

TUE	4/12/2011	9:00 AM	* 5:00 PM	* 7.50	0.00	0.00
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Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date:	4/20/2011
Time:	9:20:30 AM

* Added from Employee Attendance
* Added Punch
* Edited Punch
* Late Arrival

Day	Date	In	Out	Reg	OT	DT
WED	4/13/2011	9:00 AM	5:30 PM	8.00	0.00	0.00
THU	4/14/2011	9:00 AM	12:00 PM	3.00	0.00	0.00
THU	4/14/2011	12:45 PM	5:30 PM	4.75	0.00	0.00
FRI	4/15/2011	9:04 AM	5:40 PM	8.10	0.00	0.00
MON	4/18/2011	8:54 AM	5:31 PM	8.12	0.00	0.00
TUE	4/19/2011	8:58 AM	5:03 PM	7.58	0.00	0.00
IDCard: 75				Employee Totals:	47.05	0.00

7.75

47.05

Employee: Do Yen K

WED	4/6/2011	7:57 AM	4:30 PM	8.05	0.00	0.00
THU	4/7/2011	8:04 AM	4:30 PM	7.93	0.00	0.00
FRI	4/8/2011	7:54 AM	4:30 PM	8.10	0.00	0.00
MON	4/11/2011	7:55 AM	4:30 PM	8.08	0.00	0.00
TUE	4/12/2011	7:54 AM	4:31 PM	8.12	0.00	0.00
WED	4/13/2011	7:56 AM	4:29 PM	8.05	0.00	0.00
THU	4/14/2011	7:59 AM	4:29 PM	8.00	0.00	0.00
FRI	4/15/2011	8:01 AM	4:29 PM	7.97	0.00	0.00
MON	4/18/2011	7:58 AM	4:27 PM	7.98	0.00	0.00
TUE	4/19/2011	8:24 AM	4:30 PM	7.60	0.00	0.00
IDCard: 65				Employee Totals:	79.88	0.00

79.88

Employee: Dominguez Anita

WED	4/6/2011	8:00 AM	4:27 PM	7.95	0.00	0.00
THU	4/7/2011	7:58 AM	4:29 PM	8.02	0.00	0.00
FRI	4/8/2011	7:53 AM	4:30 PM	8.12	0.00	0.00
MON	4/11/2011	8:08 AM	4:32 PM	7.90	0.00	0.00
TUE	4/12/2011	7:52 AM	4:28 PM	8.10	0.00	0.00
WED	4/13/2011	8:05 AM	4:31 PM	7.93	0.00	0.00
THU	4/14/2011	8:11 AM	4:29 PM	7.80	0.00	0.00
FRI	4/15/2011	7:45 AM	4:30 PM	8.25	0.00	0.00
MON	4/18/2011	7:47 AM	4:32 PM	8.25	0.00	0.00
TUE	4/19/2011	7:46 AM	4:05 PM	7.82	0.00	0.00
IDCard: 48				Employee Totals:	80.13	0.00

80.13

Employee: Dubon, Maria

WED	4/6/2011	9:03 AM	4:28 PM	6.92	0.00	0.00
THU	4/7/2011	8:59 AM	3:00 PM	5.52	0.00	0.00
FRI	4/8/2011	8:12 AM	1:15 PM	4.55	0.00	0.00
MON	4/11/2011	8:14 AM	4:17 PM	7.55	0.00	0.00
TUE	4/12/2011	7:53 AM	2:59 PM	6.60	0.00	0.00
WED	4/13/2011	7:55 AM	2:59 PM	6.57	0.00	0.00
THU	4/14/2011	7:56 AM	4:29 PM	8.05	0.00	0.00
FRI	4/15/2011	10:10 AM	1:06 PM	2.93	0.00	0.00
IDCard: 7				Employee Totals:	48.68	0.00

48.68

Employee: Escobar, Milton

MON	4/11/2011	6:16 AM	2:34 PM	8.30	0.00	0.00
TUE	4/12/2011	6:14 AM	2:37 PM	8.38	0.00	0.00

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Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date: 4/20/2011
Time: 9:21:07 AM

* = Added from Employee Attendance
* = Added Punch
* = Edited Punch
* = Late Arrival

Day	Date	In	Out	Reg	OT	DT
WED	4/13/2011	6:12 AM	* 2:36 PM	8.40	0.00	0.00
THU	4/14/2011	6:05 AM	* 2:32 PM	8.45	0.00	0.00
FRI	4/15/2011	6:28 AM	* 2:00 PM	7.53	0.00	0.00
MON	4/18/2011	6:00 AM	* 2:28 PM	8.47	0.00	0.00
TUE	4/19/2011	5:56 AM	* 2:30 PM	8.57	0.00	0.00
Employee Totals:				58.10	0.00	0.00

78 hrs Vacation
66.10

IDCard: 8

Employee: Fatima Israr

WED	4/6/2011	8:03 AM	* 4:28 PM	7.92	0.00	0.00
THU	4/7/2011	7:57 AM	4:28 PM	8.02	0.00	0.00
FRI	4/8/2011	7:34 AM	4:28 PM	8.40	0.00	0.00
MON	4/11/2011	7:52 AM	4:28 PM	8.10	0.00	0.00
TUE	4/12/2011	7:46 AM	4:27 PM	8.18	0.00	0.00
WED	4/13/2011	7:36 AM	4:29 PM	8.38	0.00	0.00
THU	4/14/2011	7:59 AM	4:28 PM	7.98	0.00	0.00
FRI	4/15/2011	7:48 AM	4:27 PM	8.15	0.00	0.00
MON	4/18/2011	7:49 AM	4:29 PM	8.17	0.00	0.00
TUE	4/19/2011	8:01 AM	3:28 PM	6.95	0.00	0.00

Employee Totals: 80.25 0.00 0.00

IDCard: 50

Employee: Guerra, Jesus

WED	4/6/2011	6:20 AM	* 2:54 PM	8.57	0.00	0.00
THU	4/7/2011	6:24 AM	* 2:42 PM	8.30	0.00	0.00
MON	4/11/2011	6:04 AM	* 2:35 PM	8.52	0.00	0.00
TUE	4/12/2011	6:02 AM	* 2:38 PM	8.60	0.00	0.00
WED	4/13/2011	6:12 AM	* 2:38 PM	8.43	0.00	0.00
THU	4/14/2011	6:04 AM	* 2:33 PM	8.48	0.00	0.00
FRI	4/15/2011	6:08 AM	* 2:35 PM	8.45	0.00	0.00
TUE	4/19/2011	6:22 AM	* 2:49 PM	8.45	0.00	0.00

Employee Totals: 67.80 0.00 0.00

IDCard: 13

Employee: Harge Richard

WED	4/6/2011	6:17 AM	* 2:52 PM	8.08	0.00	0.00
THU	4/7/2011	6:11 AM	* 2:40 PM	7.98	0.00	0.00
FRI	4/8/2011	6:18 AM	* 2:42 PM	7.90	0.00	0.00
MON	4/11/2011	6:04 AM	* 2:35 PM	8.02	0.00	0.00
TUE	4/12/2011	6:13 AM	* 2:39 PM	7.93	0.00	0.00
WED	4/13/2011	6:11 AM	* 2:42 PM	8.02	0.00	0.00
THU	4/14/2011	6:09 AM	* 2:32 PM	7.88	0.00	0.00
FRI	4/15/2011	6:13 AM	* 3:06 PM	8.38	0.00	0.00
MON	4/18/2011	6:10 AM	* 2:28 PM	7.80	0.00	0.00
TUE	4/19/2011	6:08 AM	* 2:09 PM	7.52	0.00	0.00

Employee Totals: 79.52 0.00 0.00

IDCard: 60

Employee: Kelley B Kelnigh

WED	4/6/2011	9:06 AM	5:31 PM	7.92	0.00	0.00
THU	4/7/2011	8:56 AM	5:30 PM	8.07	0.00	0.00
FRI	4/8/2011	9:00 AM	5:31 PM	8.02	0.00	0.00
MON	4/11/2011	8:52 AM	8:30 PM	11.13	0.00	0.00

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Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date	4/20/2011
Time	9:21:50 AM
* = Added from Employee Attendance * = Added Punch * = Edited Punch * = Late Arrival	

Day	Date	In	Out	Reg	OT	DT
TUE	4/12/2011	11:59 AM	6:30 PM	6.02	0.00	0.00
WED	4/13/2011	9:00 AM	6:00 PM	8.50	0.00	0.00
THU	4/14/2011	10:58 AM	5:30 PM	6.03	0.00	0.00
FRI	4/15/2011	9:04 AM	5:42 PM	8.13	0.00	0.00
MON	4/18/2011	9:10 AM	5:30 PM	7.83	0.00	0.00
TUE	4/19/2011	10:49 AM	7:40 PM	8.10	0.00	0.00
IDCard: 0072		Employee Totals:		71.65	0.00	0.00

Employee: Lanzo, Jose

WED	4/6/2011	6:58 AM	2:55 PM	7.95	0.00	0.00
THU	4/7/2011	8:21 AM	3:04 PM	6.72	0.00	0.00
FRI	4/8/2011	5:57 AM	2:41 PM	8.73	0.00	0.00
MON	4/11/2011	6:31 AM	2:42 PM	8.18	0.00	0.00
TUE	4/12/2011	8:13 AM	3:13 PM	7.00	0.00	0.00
WED	4/13/2011	6:24 AM	3:03 PM	8.65	0.00	0.00
THU	4/14/2011	6:20 AM	3:01 PM	8.68	0.00	0.00
FRI	4/15/2011	6:20 AM	2:30 PM	8.17	0.00	0.00
MON	4/18/2011	7:59 AM	3:02 PM	7.05	0.00	0.00
TUE	4/19/2011	5:32 AM	2:30 PM	8.97	0.00	0.00
IDCard: 34		Employee Totals:		80.10	0.00	0.00

Employee: Le Tran, Tuong

WED	4/6/2011	5:05 AM	4:46 PM	11.18	0.00	0.00
THU	4/7/2011	5:32 AM	4:32 PM	10.50	0.00	0.00
FRI	4/8/2011	4:57 AM	4:32 PM	11.08	0.00	0.00
MON	4/11/2011	5:06 AM	4:36 PM	11.00	0.00	0.00
TUE	4/12/2011	4:58 AM	4:39 PM	11.18	0.00	0.00
WED	4/13/2011	5:00 AM	4:36 PM	11.10	0.00	0.00
THU	4/14/2011	5:30 AM	4:32 PM	10.53	0.00	0.00
FRI	4/15/2011	5:06 AM	10:42 AM	5.10	0.00	0.00
IDCard: 35		Employee Totals:		81.68	0.00	0.00

Employee: Lee, Anwan

WED	4/6/2011	9:06 AM	5:30 PM	7.90	0.00	0.00
THU	4/7/2011	8:59 AM	7:46 PM	10.27	0.00	0.00
FRI	4/8/2011	8:51 AM	5:30 PM	8.15	0.00	0.00
MON	4/11/2011	8:59 AM	5:30 PM	8.02	0.00	0.00
TUE	4/12/2011	7:30 AM	6:00 PM	10.00	0.00	0.00
WED	4/13/2011	9:06 AM	9:00 PM	11.40	0.00	0.00
THU	4/14/2011	9:02 AM	5:15 PM	7.72	0.00	0.00
FRI	4/15/2011	9:05 AM	5:00 PM	7.42	0.00	0.00
IDCard: 70		Employee Totals:		70.87	0.00	0.00

Employee: Nelson Meredith

THU	4/7/2011	9:10 AM	8:26 PM	10.77	0.00	0.00
FRI	4/8/2011	12:37 PM	5:31 PM	4.90	0.00	0.00
TUE	4/12/2011	9:06 AM	6:14 PM	8.63	0.00	0.00
THU	4/14/2011	9:02 AM	5:35 PM	8.05	0.00	0.00

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Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date	4/20/2011
Time	9:22:29 AM

* = Added from Employee Attendance
* = Added Punch
* = Edited Punch
* = Late Arrival

Day	Date	In	Out	Reg	OT	DT
FRI	4/15/2011	12:20 PM	5:44 PM	4.90	0.00	0.00
TUE	4/19/2011	9:03 AM	5:37 PM	8.07	0.00	0.00
IDCard: 33		Employee Totals:		45.32	0.00	0.00

Employee: Newhard Carol

WED	4/6/2011	6:03 AM	* 2:31 PM	7.97	0.00	0.00
THU	4/7/2011	6:01 AM	* 2:32 PM	8.02	0.00	0.00
FRI	4/8/2011	5:57 AM	* 2:32 PM	8.08	0.00	0.00
MON	4/11/2011	6:04 AM	* 2:33 PM	7.98	0.00	0.00
TUE	4/12/2011	6:03 AM	* 2:34 PM	8.02	0.00	0.00
WED	4/13/2011	6:07 AM	* 12:34 PM	5.95 + 30	0.00	0.00
WED	4/13/2011	12:57 PM	2:47 PM	1.83	0.00	0.00
THU	4/14/2011	6:02 AM	* 2:21 PM	7.82	0.00	0.00
FRI	4/15/2011	6:05 AM	* 12:21 PM	5.77 + 30	0.00	0.00
FRI	4/15/2011	12:55 PM	2:31 PM	1.60	0.00	0.00
MON	4/18/2011	6:04 AM	* 2:37 PM	8.05	0.00	0.00
TUE	4/19/2011	6:02 AM	* 2:31 PM	7.98	0.00	0.00
IDCard: 54		Employee Totals:		79.07	0.00	0.00

Employee: Nguyen, Xuan Hoa-Lam

WED	4/6/2011	7:35 AM	4:44 PM	8.65	0.00	0.00
THU	4/7/2011	7:26 AM	4:27 PM	8.52	0.00	0.00
FRI	4/8/2011	7:18 AM	4:31 PM	8.72	0.00	0.00
MON	4/11/2011	7:08 AM	4:31 PM	8.88	0.00	0.00
TUE	4/12/2011	7:02 AM	4:30 PM	8.97	0.00	0.00
WED	4/13/2011	7:40 AM	4:29 PM	8.32	0.00	0.00
FRI	4/15/2011	7:34 AM	4:28 PM	8.40	0.00	0.00
MON	4/18/2011	7:10 AM	4:32 PM	8.87	0.00	0.00
TUE	4/19/2011	6:56 AM	* 4:30 PM	9.07	0.00	0.00
IDCard: 16		Employee Totals:		78.38	0.00	0.00

Employee: Piedra Taide

WED	4/6/2011	6:39 AM	* 3:10 PM	8.02	0.00	0.00
THU	4/7/2011	6:41 AM	* 3:36 PM	8.42	0.00	0.00
FRI	4/8/2011	6:58 AM	* 3:36 PM	8.13	0.00	0.00
MON	4/11/2011	6:39 AM	* 3:32 PM	8.38	0.00	0.00
TUE	4/12/2011	7:01 AM	4:28 PM	8.95	0.00	0.00
WED	4/13/2011	7:24 AM	4:31 PM	8.62	0.00	0.00
THU	4/14/2011	7:18 AM	3:35 PM	7.78	0.00	0.00
FRI	4/15/2011	7:05 AM	2:30 PM	6.92	0.00	0.00
MON	4/18/2011	7:01 AM	4:31 PM	9.00	0.00	0.00
TUE	4/19/2011	7:24 AM	12:20 PM	4.93	0.00	0.00
IDCard: 0045		Employee Totals:		79.15	0.00	0.00

Employee: Ramirez, Margarita

WED	4/6/2011	7:41 AM	* 3:00 PM <i>1/2</i>	6.82	0.00	0.00
THU	4/7/2011	7:40 AM	4:30 PM	8.33	0.00	0.00
FRI	4/8/2011	7:39 AM	3:00 PM <i>1/2</i>	6.85	0.00	0.00
MON	4/11/2011	9:21 AM	4:31 PM	6.67	0.00	0.00

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Team Go FigureReport Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date:	4/20/2011
Time:	9:23:13 AM

* - Added from Employee Attendance
 * - Added Punch
 * - Edited Punch
 * - Late Arrival

Day	Date	In	Out	Reg	OT	DT
TUE	4/12/2011	5:20 AM	* 7:21 AM	2.02	0.00	0.00
TUE	4/12/2011	7:44 AM	* 4:28 PM	8.23	0.00	0.00
WED	4/13/2011	5:46 AM	* 4:31 PM	10.25	0.00	0.00
THU	4/14/2011	7:39 AM	3:00 PM <i>L</i>	6.85	0.00	0.00
FRI	4/15/2011	7:38 AM	4:31 PM	8.38	0.00	0.00
MON	4/18/2011	5:01 AM	* 7:17 AM	2.27	0.00	0.00
MON	4/18/2011	7:39 AM	3:01 PM ?	6.87	0.00	0.00
TUE	4/19/2011	7:39 AM	1:10 PM ?	5.02	0.00	0.00
IDCard: 23 Employee Totals:				78.55	0.00	0.00

80

$$\begin{array}{r} 78.55 \\ 1.50 \\ \hline 80.05 \end{array}$$

Employee: Saracho P Rona

WED	4/6/2011	7:48 AM	1:06 PM <i>L</i>	4.80	0.00	0.00
THU	4/7/2011	7:07 AM	3:31 PM	7.90	0.00	0.00
FRI	4/8/2011	7:06 AM	3:35 PM	7.98	0.00	0.00
MON	4/11/2011	7:57 AM	3:32 PM	7.08	0.00	0.00
TUE	4/12/2011	7:27 AM	3:30 PM	7.55	0.00	0.00
THU	4/14/2011	7:08 AM	3:36 PM	7.97	0.00	0.00
FRI	4/15/2011	7:04 AM	2:32 PM	6.97	0.00	0.00
MON	4/18/2011	7:02 AM	4:31 PM	8.98	0.00	0.00
TUE	4/19/2011	7:06 AM	12:20 PM	4.73	0.00	0.00
IDCard: 73 Employee Totals:				63.97	0.00	0.00

$$\begin{array}{r} 63.97 \\ + 5.00 \\ \hline 68.97 \end{array}$$

Employee: Silva, Dora M

WED 4/6/2011 7:01 AM

Employee: Tran, Anh

WED	4/6/2011	7:55 AM	4:29 PM	8.07	0.00	0.00
THU	4/7/2011	8:01 AM	4:29 PM	7.97	0.00	0.00
FRI	4/8/2011	7:47 AM	4:31 PM	8.23	0.00	0.00
MON	4/11/2011	8:07 AM	4:30 PM	7.88	0.00	0.00
TUE	4/12/2011	8:12 AM	4:29 PM	7.78	0.00	0.00
WED	4/13/2011	8:01 AM	4:13 PM	7.70	0.00	0.00
THU	4/14/2011	7:48 AM	4:30 PM	8.20	0.00	0.00
FRI	4/15/2011	7:50 AM	4:30 PM	8.17	0.00	0.00
MON	4/18/2011	8:06 AM	4:30 PM	7.90	0.00	0.00
TUE	4/19/2011	7:52 AM	4:30 PM	8.13	0.00	0.00
IDCard: 26 Employee Totals:				80.03	0.00	0.00

80

Employee: Tran, Hoa

WED	4/6/2011	7:39 AM	4:31 PM	8.37	0.00	0.00
THU	4/7/2011	7:38 AM	4:28 PM	8.33	0.00	0.00
FRI	4/8/2011	7:44 AM	4:31 PM	8.28	0.00	0.00
MON	4/11/2011	7:37 AM	4:30 PM	8.38	0.00	0.00
TUE	4/12/2011	7:36 AM	4:29 PM	8.38	0.00	0.00
WED	4/13/2011	7:37 AM	4:29 PM	8.37	0.00	0.00
THU	4/14/2011	7:42 AM	4:30 PM	8.30	0.00	0.00
FRI	4/15/2011	7:36 AM	4:28 PM	8.37	0.00	0.00
MON	4/18/2011	7:42 AM	4:32 PM	8.33	0.00	0.00
TUE	4/19/2011	7:38 AM	12:45 PM	4.62	0.00	0.00
IDCard: 27 Employee Totals:				79.73	0.00	0.00

79.73

29 - A
Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date	4/20/2011
Time	9:23:52 AM

☐ = Added from Employee Attendance
☐ = Added Punch
☐ = Edited Punch
☐ = Late Arrival

Day	Date	In	Out	Reg	OT	DT
Employee: Tran, Noi						
WED	4/6/2011	8:05 AM	4:30 PM	7.92	0.00	0.00
THU	4/7/2011	8:10 AM	4:28 PM	7.80	0.00	0.00
FRI	4/8/2011	7:52 AM	4:31 PM	8.15	0.00	0.00
MON	4/11/2011	7:46 AM	4:30 PM	8.23	0.00	0.00
TUE	4/12/2011	7:47 AM	4:30 PM	8.22	0.00	0.00
WED	4/13/2011	7:48 AM	4:30 PM	8.20	0.00	0.00
THU	4/14/2011	7:45 AM	4:28 PM	8.22	0.00	0.00
FRI	4/15/2011	8:03 AM	4:29 PM	7.93	0.00	0.00
MON	4/18/2011	8:14 AM	4:31 PM	7.78	0.00	0.00
TUE	4/19/2011	7:57 AM	4:31 PM	8.07	0.00	0.00
Employee Totals:				80.52	0.00	0.00

IDCard: 28

Employee: Tran, Yen

WED	4/6/2011	8:27 AM	4:36 PM	7.65	0.00	0.00
THU	4/7/2011	8:17 AM	10:30 AM	2.22	0.00	0.00
THU	4/7/2011	11:31 AM	4:30 PM	4.98	0.00	0.00
FRI	4/8/2011	8:20 AM	4:32 PM	7.70	0.00	0.00
MON	4/11/2011	8:52 AM	4:31 PM	7.15	0.00	0.00
TUE	4/12/2011	8:29 AM	4:32 PM	7.55	0.00	0.00
WED	4/13/2011	8:15 AM	4:31 PM	7.77	0.00	0.00
THU	4/14/2011	9:00 AM	4:30 PM	7.00	0.00	0.00
FRI	4/15/2011	8:37 AM	4:30 PM	7.38	0.00	0.00
MON	4/18/2011	8:20 AM	1:02 PM	4.70	0.00	0.00
MON	4/18/2011	1:32 PM	4:32 PM	3.00	0.00	0.00
TUE	4/19/2011	8:16 AM	4:30 PM	7.73	0.00	0.00
Employee Totals:				74.83	0.00	0.00

IDCard: 29

Employee: Uong, Hue L

WED	4/6/2011	7:30 AM	4:32 PM	8.53	0.00	0.00
THU	4/7/2011	7:14 AM	1:09 PM	5.42	0.00	0.00
FRI	4/8/2011	7:41 AM	3:21 PM	7.17	0.00	0.00
MON	4/11/2011	7:35 AM	4:31 PM	8.43	0.00	0.00
TUE	4/12/2011	7:39 AM	4:31 PM	8.37	0.00	0.00
WED	4/13/2011	7:29 AM	4:29 PM	8.50	0.00	0.00
THU	4/14/2011	7:43 AM	4:30 PM	8.28	0.00	0.00
FRI	4/15/2011	7:27 AM	4:29 PM	8.53	0.00	0.00
MON	4/18/2011	7:18 AM	4:31 PM	8.72	0.00	0.00
TUE	4/19/2011	7:07 AM	3:50 PM	8.22	0.00	0.00
Employee Totals:				80.17	0.00	0.00

IDCard: 66

Employee: Varela, Ana

WED	4/6/2011	7:55 AM	4:31 PM	8.10	0.00	0.00
THU	4/7/2011	7:55 AM	4:30 PM	8.08	0.00	0.00
FRI	4/8/2011	7:52 AM	4:30 PM	8.13	0.00	0.00
MON	4/11/2011	7:59 AM	4:31 PM	8.03	0.00	0.00
TUE	4/12/2011	7:57 AM	4:30 PM	8.05	0.00	0.00
WED	4/13/2011	7:55 AM	4:31 PM	8.10	0.00	0.00
THU	4/14/2011	7:53 AM	4:30 PM	8.12	0.00	0.00

Printed In: 800K

Page 8

30 - A
Team Go Figure

Report Of Hours Worked - All Departments
Report from 4/6/2011 to 4/19/2011 - Worked Hours
All Employees

Date: 4/20/2011
Time: 9:24:30 AM
 * Added from Employee Attendance
 * Added Punch
 * Edited Punch
 * Late Arrival

Day	Date	In	Out	Reg	OT	DT
FRI	4/15/2011	8:00 AM	4:30 PM	8.00	0.00	0.00
MON	4/18/2011	7:58 AM	4:30 PM	8.03	0.00	0.00
TUE	4/19/2011	7:50 AM	3:43 PM	7.38	0.00	0.00
IDCard: 31		Employee Totals:		80.03	0.00	0.00
Totals:				2178.93	0.00	0.00

8380 7994-3 C9406
 32-A
 UT Support & Customer Service
 TEXAS WORKFORCE COMMISSION
 BOX 901010
 FORT WORTH TX 76101-2010



DETERMINATION ON PAYMENT OF UNEMPLOYMENT BENEFITS
 Date Mailed: May 31, 2011

KATHLEEN M CRAIG
 2505 DILLON DR
 GARLAND TX 75040-8843



Social Security Number: XXX-XX-1058
 Employer: TEAM GO FIGURE INC
 As:
 Employer Account No.: 07-386349-0
 All dates are shown in
 month-day-year order.

Decision

Issue: Quit-Job Abandonment-Disqualified
Decision: We cannot pay you benefits during this period of unemployment.
Reason for Decision: Our investigation found you abandoned your last work by walking off the job and/or failing to report for work while work was still available for you. Your reason for quitting was not good cause connected with the work.
Beginning Date of No Payment Period: 04-17-11
 If you return to employment after the beginning date of the "No Payment Period" decision, you may be able to receive unemployment benefits if you provide evidence to TWC that:
 (a) you worked at least 30 hours a week for 6 weeks OR earned wages equal to 6 times your weekly benefit amount AND
 (b) the reason you are unemployed from your last work is considered to be for qualifying reasons.
Law Reference: Section 207.045 of the Texas Unemployment Compensation Act.

Determination of Potential Chargeback for the Employer

If You Disagree with this Decision

If you disagree with this decision, you may appeal. Fax or have any appeal you may file postmarked on or before 05-14-11. TWC will use the date we receive the fax to determine whether your appeal is timely. If you file your appeal by fax, you should retain your fax confirmation as proof of transmission. Please include a copy of this notice with Appeals correspondence. The Appeal must be in writing to this address:

Appeal Tribunal
 Texas Workforce Commission
 101 E. 15th Street
 Austin, TX 78778-0002
 FAX (512) 475-1135

Please see reverse for how to file an appeal.
 BD500E 03/27/2007

Case No.:	8
Claim ID.:	EX8001
Claim Date:	04-21-11
FOR HEARING IMPAIRED CLIENTS	
Relay Texas TDD No.:	1-800-735-2989
Voice No.:	1-800-735-2985

33 - A

What You Should Know about Filing an Appeal

You may appeal this decision by mailing or faxing a signed letter to the TWC Appeals Department at the address or fax number on the front of this form. File your appeal within 14 calendar days of the date that we mailed you this decision. You must file your appeal by the deadline date on the front of this form.*

- ▶ If you mail your appeal, the letter must have a postmark that is on or before the deadline date.
- ▶ If you fax your appeal, we must receive the fax on or before the deadline date. If you want to fax your appeal but do not have access to a fax machine, you may use the fax machines at a Workforce Center in Texas or other states. Print and keep the confirmation page that shows we received the fax.

Make sure your appeal includes:

- ▶ your name and Social Security number (SSN)
- ▶ your current address
- ▶ the date TWC mailed you the decision

Use this link to help prepare for your hearing:

www.twc.state.tx.us/ui/appel/claimants_intro.html

If you don't have Internet access, use the computers at your library or Workforce Center.

Your appeal leads to a telephone hearing with the Appeal Tribunal. Your employer may be able to file an appeal on your claim. Both of you may participate in the hearing. We will mail you a hearing notice packet with the date and time of your appeal hearing and instructions on submitting any additional documents you may wish to present at the hearing. You should mail or fax copies of the additional documents to your employer and TWC as soon as possible after receiving the hearing notice.

- ▶ It is important that you participate in the hearing because the hearing officer makes the decision on your appeal based entirely on evidence given at the hearing. If you cannot participate in the hearing at the scheduled time, call the hearing officer promptly at the number listed on the hearing notice.
- ▶ The Appeal Tribunal hearing consists of oral statements given under oath. Most parties participate without representation. However, you may have someone with you in the hearing to represent you. TWC does not provide the parties with representation.
- ▶ You may call witnesses. If you or your witnesses do not speak English, write on the appeal that you need an interpreter and for which language. If you or your witnesses need other special services, such as services for hearing-impaired participants, or access to a telephone, tell us that, too.
- ▶ We mail you the Appeal Tribunal's decision. If you disagree with the decision, you may appeal to the next level of review, the three-member Commission. The Commission decides your case after reviewing the Appeal Tribunal decision and listening to the recorded hearing.
- ▶ If you disagree with the Commission decision, you may file a Motion for Rehearing within 14 calendar days of the decision. The Commission will grant the motion if you can show:
 - a. Important new information;
 - b. Why you think the information could change the decision; and
 - c. A compelling reason why you didn't present the information earlier.
- ▶ You may appeal to a civil court between 15 and 28 days after the date TWC mailed you the decision. Before appealing to a civil court, you must complete all the appeals through TWC, except the Motion for Rehearing.

You must continue to request payments every two weeks while you appeal, unless you return to full-time work. TWC can pay you only for weeks in which you request payment and meet all other requirements.

* **IMPORTANT:** If you miss the deadline date on this form, explain in detail on the appeal why you filed your appeal late. If TWC decides not to hear the case because your appeal was late, we will mail you a decision. You can appeal that decision.

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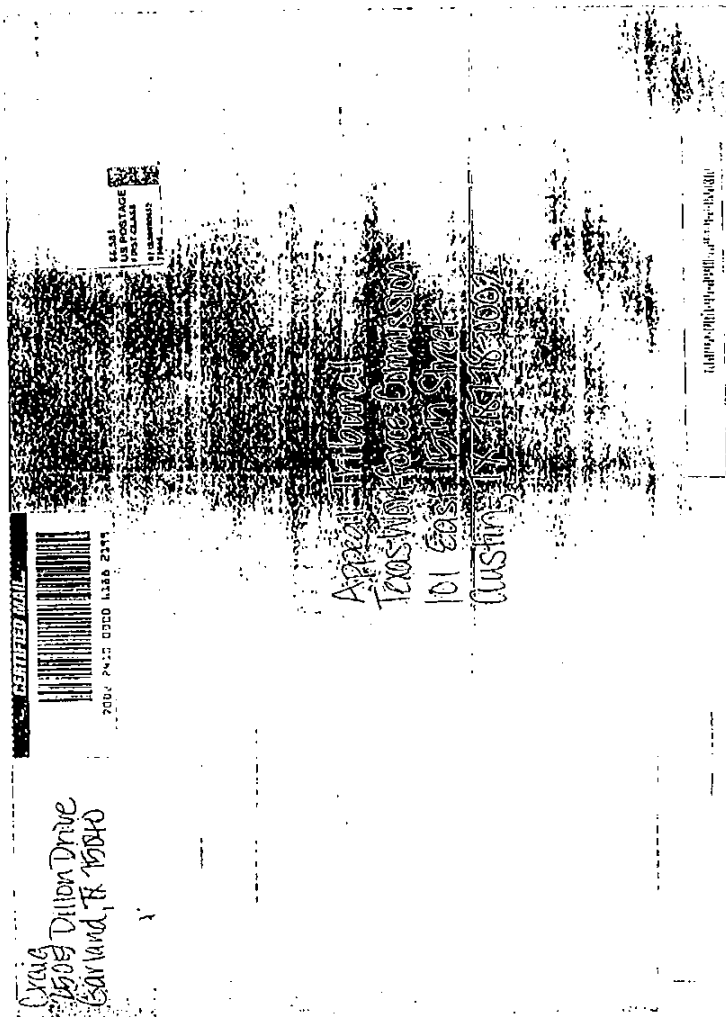


Exhibit “G”

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

James Moulton
SMITH, SMITH & SMITH, LLP
939 Highway 80 East, Suite 486
Mesquite, Texas 75150
972.698.0999

FOR THE DEFENDANTS:

Claudine G. Jackson
BRACKETT & ELLIS, PC
100 Main Street
Fort Worth, Texas, 76102
817.338.1700
cjackson@belaw.com

ALSO PRESENT:

Susan Elliott
Scott Eskridge

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EXHIBITS

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P R O C E E D I N G S

THE REPORTER: Ms. Miller, would you raise your right hand, please, and be sworn.

Do you solemnly swear, or affirm, the testimony you shall give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE REPORTER: Thank you.

TONI RAE MILLER,
having been first duly sworn, testified as follows:

EXAMINATION

BY MS. JACKSON:

Q. Good morning, Ms. Miller. My name is Claudine Jackson, and you and I have met before; is that correct?

A. That is correct.

Q. And would you please state your full legal name for the record.

A. Toni Rae Miller.

Q. Have you gone by other -- any other names?

A. My maiden name, Toni Turner.

Q. Okay. Any others?

A. And then I was married before; Toni Bartlett.

1 MR. MOULTON: In the Penny Durrett
2 case.

3 BY MS. JACKSON:

4 Q. Okay. And I take it your -- your contact
5 information was provided, and then Mr. Moulton touched
6 base with you about the Penny Durrett case?

7 A. Yes, that is -- that's -- that's right.
8 Okay. I do -- I do remember now. Because I received
9 a phone call and -- asking if I still worked at Team
10 Go Figure, and I said I did not. And that was how we
11 got in contact.

12 Q. Okay. Let me -- let me -- I'm kind of
13 jumping around a little bit.

14 Let's -- let's go back to the beginning
15 of your employment with Team Go Figure, okay?

16 A. Okay.

17 Q. And you have indicated that you believe you
18 started somewhere around the 26th, 25th, or 27th of
19 April; is that correct?

20 A. Yes. I believe it's when I received my
21 first paycheck.

22 Q. And at the time that you started your
23 employment with Team Go Figure, did you receive a
24 handbook and sign off on it?

25 A. I -- I don't know. I don't remember.

1 Figure --

2 A. Yes.

3 Q. -- and the customer service department was
4 generally responsible for one of the five or six
5 bathrooms, is that correct?

6 A. The one in the front, yes, ma'am.

7 Q. Okay. And --

8 A. He specifically assigned that to Susan and I
9 to make sure that it was clean and kept up with.

10 Q. Okay. And you were the sales manager in the
11 front office, correct?

12 A. Yes.

13 Q. And Susan was the -- at least according to
14 her emails, the accountant, slash, HR person for Team
15 Go Figure in -- also located in the front office?

16 A. She was the bookkeeper; yes.

17 Q. Okay. And y'all were -- were asked to just
18 make sure that the bathroom was kept clean, right?

19 A. We were asked to clean the bathroom and make
20 sure that it was clean, yes.

21 Q. Okay. And did y'all ever assign that task
22 to anyone?

23 A. No, we did not, because it was assigned to
24 us by Scott.

25 Q. Okay. And so, it is your testimony that

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN \$
ELLIOT, ARIEL KLEINSMITH \$
AND ANTWAN LEE, \$

Plaintiffs

VS.

§ CIVIL ACTION NO.
§ 3:13-cv-1509

TEAM GO FIGURE, L.L.P., \$
AND TEAM GO FIGURE AND \$
SCOTT ESKRIDGE, \$

Defendants

REPORTER'S CERTIFICATION
DEPOSITION OF TONI RAE MILLER
Volume 1 of 2
January 15, 2014

STATE OF TEXAS)

I, Gaylord A. Sturgess, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that, pursuant to the agreement hereinbefore set forth, there came before me TONI RAE MILLER, who was by me duly sworn to testify the truth, the whole truth, and nothing but the truth of said witness's knowledge concerning the matters in controversy in this cause; and the said witness was thereupon carefully examined upon said oath, and said

1 examination reduced to writing under my supervision;
2 that the deposition is a true record of the testimony
3 given by said witness, same to be sworn to and
4 subscribed by said witness before any notary public,
5 pursuant to the agreement of the parties.

6 I further certify that \$ ^{1390.75} ~~600~~ is the
7 deposition officer's charges to Defendants for
8 preparing the original deposition transcript and any
9 copies of exhibits.

10 I further certify that I am neither
11 counsel for nor related to any party in this cause and
12 am not financially interested in its outcome.

13 GIVEN UNDER MY HAND AND SEAL of office
14 on January 21, 2014.

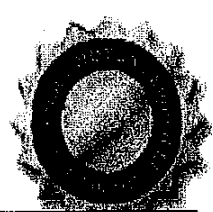

15 
16 
17 Gaylord A. Sturgess, Texas CSR 744
18 Expiration Date: 12/31/14
19 Merit Court Reporters, LLC
20 307 W. 7th Street
21 Suite 1350 Commerce Building
22 Fort Worth, Texas 76102
23 817-336-3042
24 Job No. 18228.as
25

Exhibit “H”

Outside Sales Representatives Supervised by Month by Toni Miller

		2010																																		
		18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52
EMPLOYEE																																				
POSITION																																				
OUTSIDE SALES REPRESENTATIVES/SALES ASSISTANTS																																				
Marie Coker	Outside Sales	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Penny Durrett	Outside Sales																																			
Anthony Lee	Outside Sales																																			
April Elders	Outside Sales																																			
April Lutz	Outside Sales																																			
Ariel Kleinmuth	Outside Sales																																			
Jennifer Conner	Outside Sales																																			
Kristen Kosack	Outside Sales																																			
Kristina Steinhauer	Outside Sales																																			
LaNeigh Hudson	Outside Sales																																			
Meissa Birdwell	Outside Sales																																			
Michelle Holland	Outside Sales																																			
Tabitha Corker	Sales Assistant																																			
Christy Garcia	Outside sales																																			
Hollie Hogan (Hess)	Outside sales																																			
Laren Lazenby	Sales Assistant																																			
Total Outside Reps.																																				



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APP-0469

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APP-0470

Outside Sales Representatives Supervised by Month by Toni Miller

Employee Name	Position	2012																																																					
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52		
OUTSIDE SALES REPRESENTATIVES/SALES ASSISTANTS																																																							
LES ASSISTANTS																																																							
Maie Coker	Outside Sales																																																						
Penny Durnett	Outside Sales						X	X	X																																														
Arnevan Lee	Outside Sales					X																																																	
April Ebores	Outside Sales																																																						
April Lutz	Outside Sales																																																						
April McMoran	Outside Sales																																																						
Jennifer Connor	Outside Sales																																																						
Kristen Kosack	Outside Sales																																																						
Kristina Steinhauer	Outside Sales																																																						
Larveigh Hudson	Outside Sales																																																						
Melissa Birdwell	Outside Sales																																																						
Michelle Holland	Outside Sales																																																						
Tephia Conner	Sales Assistant																																																						
Christy Garcia	Outside sales																																																						
Hollie Hogan (Hess)	Outside sales																																																						
Larvin Lutzenby	Sales Assistant																																																						
Total Outside Reps																																																							

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APP-0471

Outside Sales Representatives Supervised by Month by Toni Miller

Employee		2013												
Position		1	2	3	4	5	6	7	8	9				
OUTSIDE SALES REPRESENTATIVES/SALES ASSISTANTS														
Marie Coker	Outside Sales													
Penny Durrett	Outside Sales													
Antwan Lee	Outside Sales													
April Elders	Outside Sales													
April Lutts	Outside Sales							x	x	x				
Anel Kleinsmith	Outside Sales													
Jennifer Conner	Outside Sales	x	x	x	x	x	x	x	x	x				
Kirsten Kosack	Outside Sales	x	x	x	x	x								
Kristina Steinhauer	Outside Sales		x	x	x	x	x	x	x	x				
LaNeigh Hudson	Outside Sales													
Melissa Birdwell	Outside Sales													
Michelle Holland	Outside Sales													
Tabitha Corker	Sales Assistant													
Christy Garcia	Outside sales													
Hollie Hogan (Hess)	Outside sales													
Laren Lazenby	Sales Assistant													
Total Outside Reps														

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APP-0472

Exhibit “I”

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**TONI MILLER, SUSAN ELLIOTT,
ARIEL KLEINSMITH
AND ANTWAN LEE**

Plaintiffs,

V.

TEAM GO FIGURE, L.L.P., TEAM GO FIGURE, and SCOTT ESKRIDGE

Defendants

§ 87(2)(b)

CIVIL ACTION NO. 3:13-cv-1509
JURY

DECLARATION OF TONI MILLER

1. My name is Toni Miller. I am over the age of 21, of sound mind, have never been convicted of a felony, and am competent to make this declaration. Every statement herein is within my personal knowledge and is true and correct.

2. I began working for Team Go Figure on or about April 28, 2010, and was thus employed until February of 2013.

3. Team Go Figure manufactures and sells team uniforms for scholastic dance, cheer, and drill teams. Since the uniforms are tight, form fitting outfits, an integral and necessary part of the manufacturing process is the measuring and fitting of the students that will actually be wearing the uniforms. The measuring and fitting of the students usually occurred at the various schools that the students were located, and after school had ended for the day. The fittings could last anywhere from 2-4 hours and necessarily included drive time to and from the fittings and time to set up and pack up the items used to conduct the fittings. While employed at Team Go Figure, I attended in excess of 138 fittings.

4. Although I was employed as the sales manager, very little of my time was actually spent supervising anyone. Kirsten Kosack and Jennifer Connor were both located in Houston, and my “supervision” of them amounted to an occasional email or phone call several times a week during the busy season. The outside sales persons generally managed themselves as I was located in Dallas and they were located hundreds of miles away. I only made one trip to Houston during each of the years of 2011 and 2012, and those trips were actually related to matters other than the direct supervision of Kirsten Kosack or Jennifer Connor. During the summer months, I had no contact with the outside sales employees as schools were closed and no sales activities took place. Even during the “busy” season, less than 5% of my time was spent “supervising” Team Go Figure’s sales team.

5. While there were occasionally inside sales persons employed by Team Go Figure, such as Ariel Kleinsmith and Antwan Lee, such persons worked from the main office and performed customer service work as well as occasional sales. April McDougald supervised the customer service work performed by such persons, and I supervised their limited sales activities. Such management required very little of my time, particularly during the summers, when there were no sales activities occurring, since the schools were closed. At best, it could be said that I shared the management of the inside sales persons with April McDougald, however, the customer service aspect of such persons’ jobs took the majority of their time. Many months there were no inside sales persons employed by Team Go Figure, and when there was an inside sales person employed, there was always only one such employee. Accordingly, for many months of my employment with Team Go Figure, I did not “supervise” two or more full time employees.

6. Although I was given the title of Creative Director, I did not manage any other employees with regards to such position.

7. From September 1, 2011 through October 15, 2011, and the pay periods ending on November 15, 2011, and April 16, 2012, Team Go Figure took deductions from my paycheck. Team Go Figure labeled the deductions as a “payroll advance” when in fact, no such payroll advance was ever made. Team Go Figure deducted the amounts from my paycheck for an alleged debt that Defendant Scott Eskridge claimed my husband’s company owed Team Go Figure. When I complained about the deductions, I was told that if I didn’t like it, I could find a job somewhere else. At no time did I ever sign any agreement authorizing the deductions or assuming any debt owed to Team Go Figure.

8. I worked overtime hours each and every workweek that I worked at Team Go Figure. I would arrive at work at 8:00 each morning, and would leave work at 7:30 or 8:30 PM each day. I would work from home approximately 2 hours each weekday, and 10-12 hours each Saturday and Sunday. I estimate that I worked a total of 49-50 overtime hours each and every week that I worked at Team Go Figure.

9. During the fitting season, I also attended many fittings. In 2010, to the best of my recollection at this time, I attended more than 23 fittings, working in excess of 80 total overtime hours attending said fittings. In 2011, to the best of my recollection at this time, I attended 68 fittings, working approximately 193 total overtime hours attending said 68 fittings. In 2012, to the best of my recollection at this time, I attended 47 fittings, working approximately 152.5 total overtime hours attending said 47 fittings. See the Fitting Chart attached hereto, which shows a list of the fittings for each year and the fittings that I attended. The Fitting Chart was generated by reviewing the Team Order Forms and other documents produced by Team Go Figure and calendars produced by the Plaintiffs in this suit. Had Team Go Figure not destroyed my notes and records maintained in my office at Team Go Figure, I could produce a more accurate record

of the fittings I attended and hours worked.


10. A major part of my daily activities, if not the majority, was spent performing manual work, including fittings, deliveries, cleaning the bathroom, cleaning the kitchen, picking up Scott Eskridge's dry cleaning, and driving to and from schools to meet with existing clients.

11. When I was hired, it was my understanding that I was expected to work at least 40 hours per week, as stated in the handbook. I was also led to believe that I would be paid a commission and/or bonus based on the work I performed.

12. All but three or four of the employees at Team Go Figure were women and/or immigrants.

I declare that under penalty of perjury that the foregoing is true and correct.


Toni Miller


Date

FITTING CHART FOR TONI MILLER SHOWING OVERTIME HOURS WORKED

School	Fitting Date	OT Hours
Coppell ISD	4/30/2010 Toni	3.5
Rockwall Heath High – VAR/JV	5/10/2010 Toni	4
Sachse High	5/13/2010 Toni	3
Marcus High School	5/17/2010 Toni	4
Allen High Color Guard	5/20/2010 Toni	4
Desoto High School	2010 Toni	4
Grapevine Varsity	2010 Toni	3.5
Grapevine JV Belles	2010 Toni	6
Mad Frog fittings - 23 teams	2010 Toni	5
Mad Frog deliveries - 23 teams	12/13/22/2010 Toni	6
Red Oak Middle School	2010 Toni	4
GCDTA make up day	2010 Toni	2.5
Sachse JV delivery	2010 Toni	2
South Grand Prairie	2010 Toni	2
Coppell delivery	2010 Toni	3.5
McKinney Boyd High School	2010 Toni	2.5
Allen Hig school Color Guard	2010 Toni	3.5
northwest high school	2010 Toni	3.5
red oak high delivery	2010 Toni	3.5
Canyon Ridge Ms Austin	2010 Toni	1
Denton Ryan delivery	2010 Toni	3
Gladewater	2010 Toni	4
royse city delivery	2010 Toni	2
		80
irving high Band	2011 Toni	3.5
Desoto Freshman Aeires	2011 Toni	3
McKinney Boyd High School	2011 Toni	5
Centenial High School	2011 Toni	0
coppell ISD	2011 Toni	4
Creekview HS Drill	2011 Toni	2.5
Horn HS Drill Team	2011 Toni	4
Williams High School	2011 Toni	2
Hays High School	2011 Toni	6
round rock HS	2011 Toni	6
Hutto cheer	2011 Toni	6
Azle	2011 Toni	2.5
red oak middle school	2011 Toni	3
Sachse high School	2011 Toni	4.5

Rowlett high School/JV	2011 Toni	3
Mesquite high school	2011 Toni	2
Rockwall Heath High JV	2011 Toni	3
Grand Prairie HS	2011 Toni	2.5
South Grand Praire	2011 Toni	1.5
Frisco HS	2011 Toni	3.5
Frisco HS	2011 Toni	4
GCDTA	2011 Toni	4
GCDTA	2011 Toni	7.5
Mckinney Boyd	2011 Toni	2.5
south oak cliff	2011 Toni	2
Bryan Adams	2/10/2011 Toni	0
Irving High Drill	3/29/2011 Toni	3.5
Community Middle School	4/5/2011 Toni	3
Cedar Hill High School	4/6/2011 Toni	3
North Mesquite High	4/12/2011 Toni	3
Berkner High School	4/12/2011 Toni	2
North Mesquite High	4/13/2011 Toni	2.5
Red Oak High	4/13/2011 Toni	0
Plano Sr. High	4/18/2011 Toni	0
Trinity High School	4/19/2011 Toni	3.5
Bishop Lynch Highschool	4/20/2011 Toni	0
Northwest High School	4/21/2011 Toni	3.5
Mansfield High	4/26/2011 Toni	3
Hillcrest High School	5/2/2011 Toni	0
Rockwall Heath High	5/10/2011 Toni	3
Colleyville Middle School	5/18/2011 Toni	3
Allen High Color Guard	5/24/2011 Toni	3
Irving MacArthur	2011 Toni	3.5
irving Band	2011 Toni	3.5
GCDTA make up	2011 Toni	5.5
Lone Star	2011 Toni	4
Lone Star HS	2011 delivery Toni	1.5
The Colony fitting	2011 Toni	3
Canyon Ridge Ms Austin	2011 Toni	6
Canyon Ridge Ms Austin	2011 on way to T Toni	1
The Colony delivery	2011 Toni	3
Dobie cheer	2011 Toni	2.5
Denton Ryan	2011 Toni	3
Denton Ryan Delivery	2011 Toni	3
Denton Ryan delivery	2011 Toni	2
Red Oak High School	2011 Toni	2
Desoto Freshman Aeires	2011 Toni	3.5

Frisco hs delivery to camp	2011	Toni	2
Evans middle school mckinney	2011	Toni	2.5
Evans middle school delivery	2011 delivery	Toni	2
smithson valley fitting	2011 fitting	Toni	2
Roosevelt Cheer	2011	Toni	5.5
Sachse Officers	2011	toni	1
Sachse JV delivery	2011	toni	2
Rowlett JV – officers	2011	Toni	1.5
West Mesquite JV	2011	Toni	2
West Mesquite V	2011	Toni	2

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fierce cheer -	2012	Toni	5
Rowlett high School Varsity	2012	Toni	3
Crowley High School	3/19/2012	Toni	3
Adamson High	3/26/2012	Toni	1.5
Lone Star High School	2012	Toni	3.5
Plano Sr. High School	3/29/2012	Toni	3
Allen High School	4/2/2012	Toni	3
Sachse High	2012	Toni	3
Samuels HS	4/11/2012	Toni	1
Westside	4/17/2012	Toni	2
Trinity Hish School	4/18/2012	Toni	3
Prosper High School	4/19/2012	Toni	3
Northwest Varsity	4/30/2012	Toni	3
Coppel High School	2012	Toni	4
Irving MacArthur High	5/7/2012	Toni	3.5
R.L. Turner High School	5/11/2012	Toni	2
Rowlett High	5/14/2012	Toni	3
Sachse JV	5/29/2012	Toni	1.5
Fierce Cheer	9/4/2012	Toni	2
A W Brown	9/19/2012	Toni	1.5
Bishop Lynch	2012	Toni	3
McKinney Boyd High School	2012	Toni	4
Liberty High School	2012	Toni	3
Rockwall-Heath High	2012	Toni	3
Dobie High School	2012	Toni	8
Williams MS	2012	Toni	2.5
irving Band/CG	2012	Toni	3.5
GCDTA	2012	Toni	8
AAA Academy Dance	2012	Toni	1.5
Ann Richards MS	2012	Toni	1.5
Hayes	2012	Toni	5

Caddo Mills	2012 Toni	2
Chisolm Trail	2012 Toni	3
Dobie JV	2012 Toni	8
Frisco H.S.	2012 Toni	3.5
Kaufman	2012 Toni	2.5
Lakeridge	2012 Toni	5
Madison Drill	2012 Toni	2.5
Madison Twirlers	2012 Toni	2.5
Madison Color Guard	2012 Toni	2.5
McAdams D	2012 Toni	2.5
McAdams MS	2012 Toni	2.5
McBoyd JV	2012 Toni	4
McBoyd V	2012 Toni	4
MVMS Dance	2012 Toni	5
N. Crowley	2012 Toni	3
Williams	2012 Toni	2.5
		152.5

Exhibit “J”

I was paid hourly wages, and did in fact receive some overtime pay. However, such overtime payments were insufficient to compensate me for all overtime hours worked. Shortly after beginning my employment, I was given the capability of logging into Team Go Figure's computer network from home, and I was encouraged to perform work from my house. When I attempted to get paid for work performed at home, I was told by Scott Eskridge that I was "nickel and diming him to death", and that whatever I needed to do to get the tasks assigned to me done was fine with him, but that he would not pay me overtime wages for work performed from my house. However, he made it very clear that he expected me to work from my house and would often text me and call me at my house, requesting certain numbers and reports.

5. On January 31, 2012, I was switched to a salary. The switch from hourly pay to salary was made with no corresponding change in my job duties, position, or authority, and occurred just before the fitting season, when I would be required to work even more hours than normal. From January 31, 2012, until I quit my employment with Defendants on March 4, 2013, I was not paid for any overtime hours.

6. As bookkeeper, I performed the same duties for Team Go Figure that I performed for The Jet Center. I input data for accounts receivable and accounts payable into the financial software program and reconciled the accounts. I entered invoices into the accounting software, and paid invoices as they became due. I merely input the payroll data into Quickbooks, and did not review the data for accuracy, prepare the formulas, and except for the formulaic calculation of commission pay, I did not calculate the figures. I distributed mail, and ordered office supplies. I took minutes at meetings, cleaned the front bathroom, and was required to attend fittings and deliveries. While I did occasionally make determinations as to vacation pay and whether or not to ship an item without a purchase order, such determinations were based on established company policies and practices.

The vast majority of my time, at least 90%, involved routine bookkeeping tasks such as data entry, matching invoices to orders, and filing.

7. Around March of 2012, a former employee sued Team Go Figure and Scott Eskridge for sexual harassment. At that time, Scott Eskridge decided that based on the Plaintiff's counsel's allegations, the handbook needed to be changed. He asked that I find some language regarding the Family Medical Leave Act and present the language to him for inclusion in the handbook. I found some language on the internet and gave it to Scott Eskridge, however, that was the extent of my involvement in any changes to the handbook. I do not have any training in human resources and even when I requested training, Scott Eskridge said it wasn't necessary. At no time did human resource issues ever take more than 1% of my time, and it was never a primary duty for me.

8. I worked overtime each and every workweek that I worked at Defendant Team Go Figure. I would arrive at work at 8:30 each morning, and would leave work at 6:30 PM. I would work from home approximately 3 hours each weekday. For the first 4-5 weeks, I worked 12-14 hours each Saturday and Sunday. After the first 4-5 weeks, I would work 8-10 hours total during the weekend. I estimate that I worked a total of 50-52 overtime hours each week for the first 4-5 weeks of employment, totaling a total of between 200 and 250 hours of overtime during the first 4-5 weeks that I worked at Team Go Figure. After the initial 4-5 week, I worked 30-35 hours of overtime hours each week that I worked at Team Go Figure.

9. During the fitting season, I attended many fittings in addition to my usual book keeper duties. In 2012, to the best of my recollection at this time, I attended 36 fittings, working approximately 177 total overtime hours attending said 36 fittings. See the Fitting Chart attached hereto, which shows a list of the fittings for each year and the fittings that I attended. The Fitting Chart was generated by reviewing the Team Order Forms and other documents produced by Team

Go Figure and calendars produced by the Plaintiffs in this suit.


10. My hours did not fluctuate below 40 hours per week, and there was never an agreement that I was working based on a fluctuating workweek schedule. I understood, and it was stated in the company handbook, that I was required to work a minimum of 40 hours per week, and if I did take a personal day off during the week, I was expected to make those hours up. I personally know, having worked as the book keeper for Team Go Figure, that Antwan Lee's pay fluctuated week to week, depending on the hours he worked, despite the fact that he was told he was being paid a salary.

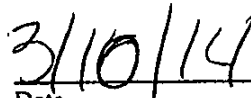
11. While employed by Team Go Figure, I was instructed to reduce the hours of hourly employees so that they would not be paid overtime hours if the hours were not authorized. When I told Mr. Eskridge that Team Go Figure's employee pay policies were illegal, his response was, "You don't see me in jail, do you?"

12. Team Go Figure had a policy of automatically deducting 30 minutes from all hourly employee's time cards on a daily basis. The 30 minute deduction was for a lunch break, however, many employees, including myself, often worked through lunch.

13. At all times that I worked at Team Go Figure, Team Go Figure employed more than two persons, and had annual sales in excess of \$500,000.

I declare that under penalty of perjury that the foregoing is true and correct.


Susan Elliott


Date

FITTING CHART FOR SUSAN ELLIOTT SHOWING OVERTIME HOURS WORKED

School	Fitting Date	Time		OT Hours
IHS Toy Tigers	3/22/2012	3:30 PM	Susan	3.25
Plano Sr. High School	3/29/2012	5:30 PM	Susan	5.25
Allen High School	4/2/2012	6:00 PM	Susan	5.75
Sachse High	2012	6:00 PM	Susan	5.75
Prosper Drill	4/3/2012	5:30 PM	Susan	5.25
Mesquite High School	4/5/2012	4:30 PM	Susan	4.25
Red Oak Varsity	4/18/2012	4:30 PM	Susan	4.25
Prosper High School	4/19/2012		Susan	5.25
Red Oak High School	2012	4:30 PM	Susan	4.25
Red Oak JR	4/25/2012	6:30 PM	Susan	6.25
Northwest Varsity	4/30/2012	4:00 pm fitting	Susan	3.75
Mansfield High School	5/1/2012	6:00 PM	Susan	5.75
Centennial High School	5/3/2012	16:30	Susan	4.25
Coppel High School	2012	17:00	Susan	4.75
Irving MacArthur High	5/7/2012	6:00 PM	Susan	5.75
Grapevine Middle School	5/9/2012	5:00 PM	Susan	4.75
R.L. Turner High School	5/11/2012		Susan	5.25
Grand Prairie High	5/22/2012	2:30 PM	Susan	2.25
Sachse JV	5/29/2012	4:30 PM	Susan	4.25
Arlington Lamar Highschool	2012		Susan	5.25
Liberty High School	2012		Susan	5.25
North Forney High School	2012		Susan	5.25
Rockwall-Heath High	2012		Susan	5.25
Irving Band/CG	2012	4 pm start	Susan	3.75
Northwest Varsity	2012	5:00 pm delivery	Susan	4.75
Cleburne	2012		susan	3.75
Frisco H.S.	2012	6pm fitting	Susan	5.75
Kaufman	2012		Susan	5.25
Lakeridge	2012	6pm delivery	Susan	5.75
McBoyd JV	2012		Susan	5.25
McBoyd V	2012		Susan	5.25
N. Mesquite JV	2012		Susan	5.25
N. Mesquite V	2012		Susan	5.25
Prosper	2012		Susan	5.25
South Oak Cliff	2012		Susan	5.25
Royce City	2012		Susan	5.25

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Exhibit “K”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN ELLIOT,)
ARIEL KLEINSMITH AND)
ANTWAN LEE,)
Plaintiffs,) CIVIL ACTION
VS.) NO.: 3:13-cv-1509
TEAM GO FIGURE, L.L.P.,)
TEAM GO FIGURE AND SCOTT)
ESKRIDGE,)
Defendants.)

ORAL DEPOSITION OF

SUSAN ELLIOTT

JANUARY 16, 2014

ORAL DEPOSITION OF SUSAN ELLIOTT, produced as a
witness at the instance of the Defendants, and duly
sworn, was taken in the above-styled and numbered cause
on January 16, 2014, from 1:19 p.m. to 6:00 p.m., before
Julie G. Davault, CSR in and for the State of Texas,
reported by machine shorthand, at the Law Offices of
Brackett & Ellis, P.C., 100 Main Street, Fort Worth,
Texas, pursuant to the Federal Rules of Civil Procedure
and the provisions stated on the record or attached
hereto.

Job No. 18229

ORIGINAL

A P P E A R A N C E S

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ALSO PRESENT: Toni Miller and Scott Eskridge

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NO.

PAGE/LINE

None

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1 THE REPORTER: Same agreements?

2 MS. JACKSON: Yes.

3 MR. MOULTON: Yes.

4 SUSAN ELLIOTT,

5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MS. JACKSON:

8 Q. Ms. Elliott, would you please state your full
9 legal name for the record?

10 A. Susan Ann Elliott.

11 Q. And what other names have you gone by?

12 A. Susan Fails, was my maiden name, Susan Reed,
13 Susan Beers.

14 Q. Are Reed and Beers other married names?

15 A. Yes.

16 Q. Okay. And when did you and your husband that
17 you have -- Are you married today?

18 A. Yes.

19 Q. Okay. When did you and your husband get
20 married, that you have today?

21 A. Four years ago.

22 Q. So you've been going by Susan Elliott for the
23 past four years?

24 A. Yes.

25 Q. You and I have met at some of the other

1 A. The one I recorded would have been --

2 Q. -- you just testified about?

3 A. -- on the last -- it would have been busy
4 season because I was doing fittings and trying to keep
5 up with the day-to-day workload and fittings at the same
6 time, so that would have been somewhere in spring to
7 summer of 2012.

8 Q. That's the time period that you were -- You
9 were present in Mr. Kenworthy's deposition yesterday,
10 were you not?

11 A. I was.

12 Q. And did you hear his testimony that Toni
13 handled most of the fittings during that busy season?

14 A. She did, yes.

15 Q. Okay. And you agree with that testimony?

16 A. Yes, she did.

17 Q. Okay. So do you even recall how many fittings
18 you handled during the 2012 busy season, to use your
19 words?

20 A. I can tell you that I -- I can estimate.

21 Q. Okay. What's your best estimation?

22 A. Two to three per week.

23 Q. When I look at the calendars that have been
24 produced by the Plaintiffs in this lawsuit, I do not see
25 two to three fittings consistently per week for the

1 A. Uh-huh.

2 Q. And you were -- you got upset during the
3 conversation, according to you, and -- because you
4 couldn't keep up with everything -- and these are your
5 words --

6 A. Uh-huh.

7 Q. -- you were stretched too thin, you had too
8 many things going on?

9 A. Uh-huh.

10 Q. And you believe that that conversation was
11 recorded sometime during the busy season of 2012?

12 A. Yes, ma'am.

13 Q. Okay. Besides the fittings, what else were you
14 doing that you had too many things going on? What else
15 were you doing during that time frame?

16 A. Mainly accounts payable. It was a massive
17 amount of paperwork because he wanted to do a three-way
18 match, which is a purchase order that is created by
19 purchasing or by Ken, primarily. When they ordered
20 materials or items they created a purchase order,
21 submitted it to our vendor and then when the items came
22 in through shipping, they received those items in on --
23 in QuickBooks, they went in and checked them off and
24 then when the bill came in, I would match it to the
25 purchase order and the receiving report to make sure

1 that all the items were received and the prices matched
2 up correctly. If they did not, if there were any
3 variations, I would take those to Ken, because he was in
4 charge of the purchasing person or purchasing in
5 general, and ask him if they -- if he was aware of them,
6 if they were okay to pay, what the situation was, if it
7 was okay to pay that particular bill. And he would sign
8 off on it or say, yes, or say, no, this is different,
9 the price is different. He would have Julie call if the
10 price was different, find out what was going on and then
11 tell me when it was okay to pay a bill.

12 Q. And besides asking Ken if it was okay to pay
13 the bill, were you the person that was involved in
14 basically doing this three-way reconciling of the
15 purchase order with the shipping with the -- with the
16 bill?

17 A. It was actually a three-part job. Purchasing
18 would do the purchase order. Shipping and receiving
19 would do the receiving report. And then when I got the
20 bill, I would compare it to the other two and check for
21 any variations.

22 Q. Okay. And that's what I'm asking, was anybody
23 else working with you when you were comparing the bill
24 with the purchase order and shipping to see if there
25 were any variations?

1 A. Taking payments --

2 Q. -- that you couldn't keep up with everything?

3 A. -- taking payments, consistently, people were
4 calling in to take payment.

5 Q. Payments from customers?

6 A. Yes, ma'am, parents.

7 Q. Were you still also handling all of your
8 payroll responsibilities?

9 A. Yes, ma'am.

10 Q. And that included entering, balancing, cutting
11 checks, making 941 deposits?

12 A. I printed the time sheets. I passed the time
13 sheets out to all of the employees. They would make any
14 changes or corrections, submit those to their supervisor
15 or bring them back to me. If they brought it back to me
16 I would take it to their supervisor and make sure that
17 their changes were accurate and enter that information
18 into the system, print the checks, until we started
19 doing direct deposit, printed the checks and had them
20 signed and give them out.

21 Q. And what are some the changes that employees
22 would make on their time cards that would take time from
23 your day to have to go ask their supervisor if it was
24 appropriate?

25 A. Sometimes they would forget to clock out and it

1 A. Yes, ma'am.

2 Q. And just so a jury understands, I'm sure the
3 jurors will have balanced checkbooks and understand
4 that, but what is reconciling an account, if it's the
5 same for all four of these?

6 A. It is go into QuickBooks. You click on
7 reconcile account. You select the account you want to
8 reconcile. It brings up all the transactions that are
9 in the financial software system. You go down the list
10 of paper transaction that you received in the mail and
11 you click off everything that matches, that's in the --
12 the software versus the paper and you hope that it comes
13 out with a zero discrepancy. If it does not come out
14 with a zero discrepancy, usually if -- if you have
15 marked it off on both pages, you will have whatever the
16 difference is staring at you.

17 It would have usually been a transfer that
18 Scott may have made from one account to another that I
19 wasn't aware of, which is common in business. And I
20 would go ask him if that was the case or if he knew, you
21 know, what this was because if it didn't go between the
22 two accounts, I had no idea where it went. So he would
23 let me know and I would go key in whatever the
24 transaction was.

25 Q. So that it could then reconcile the account?

1 A. Yes, ma'am.

2 Q. Okay. And did anyone assist you with that
3 process other than asking Scott if he did the transfer
4 that you were seeing pop up?

5 A. No, I reconciled the accounts. If I had a
6 question it would have been him. And there weren't --
7 there was another time that I had to ask Belinda because
8 he did not know and then when I asked her, she did not
9 know and she made an a assumption and it was a little
10 back and forth, but it turned out that it was a transfer
11 that Scott did that Cheri rolled forward consecutively,
12 like -- she didn't reconcile the account, so it just
13 kept rolling forward every time they closed the year out
14 because she didn't know where -- you know, where to put
15 it.

16 Q. So that issue was something that probably
17 occurred like pretty soon in your employment with Team
18 Go Figure?

19 A. Yes, ma'am.

20 Q. And you were able to work with Belinda to get
21 it figured out?

22 A. Yes, ma'am.

23 Q. And did you ever have another occasion in which
24 you felt it was necessary to get Belinda involved to
25 assist you in reconciling the bank account, savings

1 A. Yes, ma'am.

2 Q. And transferring the funds, I take it, as the
3 bookkeeper for Team Go Figure that you were looking at
4 those accounts and make suring -- making sure -- make
5 suring -- Pardon my English. Let me back up.

6 I take it as the bookkeeper for Team Go
7 Figure, if you were going to transfer funds from the
8 account, you would take a look at the balance and decide
9 if it was okay to move those funds from the account?

10 A. When it was time to pay bills, which was
11 typically every two weeks --

12 Q. Okay.

13 A. -- and payroll, yes, if there was not enough
14 money in the operating account, I would transfer it from
15 the money market account, because he would get a higher
16 interest rate on the money market account, so he
17 preferred to keep most of the money there.

18 Q. And you knew that and so you would keep it
19 there until you felt you needed to plug it into the
20 operating account to pay payroll?

21 A. Yes.

22 Q. Okay. And you made that decision?

23 A. Yes.

24 Q. Okay. And would you -- What else did you do in
25 managing these bank accounts, besides reconciling them,

1 be done, yes.

2 Q. Okay. And you mentioned that your daughter --
3 Is that Taylor?

4 A. Yes.

5 Q. That she was helping you?

6 A. She started.

7 Q. She started with the sorting process?

8 A. She started with the -- some alphabetizing.
9 She didn't last long.

10 Q. Okay. Well, how -- how long did you have any
11 help where you had somebody assisting you?

12 A. She probably did it for about 45 minutes and
13 lost interest.

14 Q. And then you -- and then you as the bookkeeper,
15 in charge of accounts receivable and paying the bills,
16 you then completed the job of sorting through these
17 stacks that were in your office when you started your
18 employment with Team Go Figure, correct?

19 A. Well, this is all stuff I've just recently gone
20 through and -- I worked at a place called the Jet
21 Center. And I'd just gone back to them recently and
22 helped them clean up their -- a similar situation, so
23 Scott and I talked about that, and he still wanted to
24 oversee the project, but because I'd done it at the Jet
25 Center and organized all their paperwork, he felt that

1 it was okay for me to take it home and do it. And, I
2 mean, it was -- it was filing --

3 Q. Well --

4 A. I don't understand what -- I mean, there's no
5 dis -- no decision making in --

6 Q. Well, it wasn't just filing. You've just
7 testified it was sorting through them --

8 A. Sorting through.

9 Q. -- it was comparing -- putting purchase orders
10 with bills from vendors or suppliers?

11 A. Okay.

12 Q. And it was determining if it had been paid and
13 if it hadn't been paid, it was talking to whether it be
14 Scott or Ken or whoever and figuring out, because you
15 were new to the company, why it hadn't been paid and
16 then it was paying the bill; is that correct?

17 MR. MOULTON: Objection, misstates the
18 evidence.

19 THE WITNESS: It -- I mean, yes -- yes, I
20 sorted. I filed. I matched. Because I did it at Jet
21 Center two times in a row, he let me take it home and do
22 it. I mean, I don't -- I don't understand what you're
23 asking me.

24 Q. (BY MS. JACKSON) I'm asking you, you sorted,
25 you filed, you matched, you determined if it was paid --

1 A. She -- I trained her a couple times before
2 because Scott wanted us to do some cross training.
3 She's the only other person that he -- he trusted there
4 to do payroll, so I had her run it a couple times and
5 then I went over it again real quickly on the day I
6 left.

7 Q. Well, what is the trust factor in being a
8 bookkeeper?

9 A. I don't know. He determines.

10 Q. At any point during your employment did you go
11 to Scott and ask him for -- I understand that he paid
12 you overtime during the period that you were an hourly
13 employee, correct?

14 A. Yes.

15 Q. At any point in time did you go to Scott, other
16 than that, to get that overtime, and ask him for
17 overtime pay?

18 A. I asked him if I could work on stuff at home.
19 And he said, I don't want you to nickel and dime me to
20 death, I can't afford to pay you for it. And I said,
21 well, if I don't take it home, I can't get to done. And
22 he said, well, I mean, you know the numbers, you know I
23 can't afford to pay for a bunch of overtime. And I
24 agreed to do it.

25 Q. But at some point in time you were a salaried

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONI MILLER, SUSAN)
ELLIOTT, ARIEL KLEINSMITH)
AND ANTWAN LEE,)
)
Plaintiffs,)
) CIVIL ACTION
VS.)
) NO.: 3:13-cv-1509
)
TEAM GO FIGURE, L.L.P.,)
TEAM GO FIGURE AND SCOTT)
ESKRIDGE,)
Defendants.)

REPORTER'S CERTIFICATION
DEPOSITION OF SUSAN ELLIOTT
JANUARY 16, 2014

I, Julie G. Davault, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, SUSAN ELLIOTT, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
January 21, 2014, to the attorney for the witness for
examination, signature and return to me by February 24,
2014;

1 That the amount of time used by each party at the
2 deposition is as follows:

3 James Moulton, Esq.....00 HOUR(S):00 MINUTE(S)
4 Claudine Jackson, Esq.....03 HOUR(S):59 MINUTE(S)

5 That pursuant to information given to the
6 deposition officer at the time said testimony was taken,
7 the following includes counsel for all parties of
8 record:

9 FOR THE PLAINTIFFS:

10 James Moulton, Esq.
11 939 Highway 80 East
12 Suite 486
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13 FOR THE DEFENDANTS:

14 Claudine Jackson, Esq.
15 BRACKETT & ELLIS, P.C.
16 100 Main Street
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17 That \$ 1205.90 is the deposition officer's
18 charges to the Defendants for preparing the original
19 deposition transcript and any copies of exhibits;

20 I further certify that I am neither counsel for,
21 related to, nor employed by any of the parties or
22 attorneys in the action in which this proceeding was
23 taken, and further that I am not financially or
24 otherwise interested in the outcome of the action.
25

Page 176

Certified to by me this 21st day of January, 2014.



Julie G. Davault, CSR, No. 2092
Expiration Date: 12/31/14
Merit Court Reporters, LLC
Firm Registration No. 133
307 W. 7th Street, Suite 1350
Fort Worth, Texas 76102
(817) 336-3042

Job No. 18227

FURTHER CERTIFICATION

The original deposition was was not returned to the deposition officer on February 24, 2014;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Claudine Jackson, Esq., Custodial Attorney;

That \$ 1205.90 is the deposition officer's charges to the Defendants for preparing the original deposition transcript and any copies of exhibits.

That a copy of this certificate was served on all parties shown herein.

1 Certified to by me this 3rd day of March,
2 2014.

3
4 By: Liana Calvery
5 FOR: Julie G. Davault, CSR, No. 2092
6 Expiration Date: 12/31/14
7 Merit Court Reporters, LLC
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Exhibit “L”